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THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

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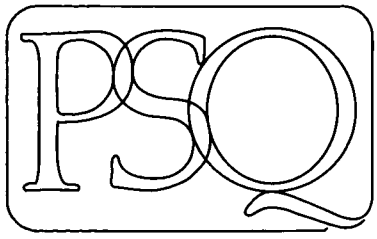

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THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

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From the Editor:

In this issue . . .

PATRICE C. McMAHON assesses international strategies for rebuilding Bosnia-Herzegovina. She contends that international involvement there has been a model to both emulate and avoid and that the successes and failures in Bosnia provide a timely test case for the efficacy of Western nation-building efforts.

EVA BELLIN draws on comparative historical analysis to explore the question can military occupation serve as the midwife to democracy? She challenges the relevance of America's historically successful occupation of Germany and Japan to the current intervention in Iraq because of the cases' fundamental incomparability. Broader comparison suggests that military occupation may improve the chances of democratization but overall, the outcome is largely shaped by other factors, domestic and international.

JOHN MUELLER assesses the rhetoric and actions of important international actors and concludes that the Cold War essentially ended in the spring of 1989. This suggests that the Cold War was principally about an ideological conflict and not about the military, nuclear, or economic balance or about Communism as a form of government—issues that would be resolved later.

MATTHEW J. DICKINSON and ANDREW RUDALEVIGE analyze the tension between neutrality and responsiveness in presidential staff agencies, focusing on the Bureau of the Budget (BoB) under President Harry S. Truman. They find that the BoB was very responsive to Truman's political needs—but that those needs were best served by a neutrally competent BoB exhibiting professionalism, careerism, and administrative competence.

NANCY SCHERER analyzes the voting behavior of judges in the United States Courts of Appeals in criminal search and seizure decisions. She concludes that black judges appear more willing than white judges to accept claims by criminal defendants of police misconduct and that in certain cases, race may in fact impact judicial decision making.

DEMETRIOS JAMES CARALEY

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Rebuilding Bosnia: A Model to Emulate or to Avoid?

PATRICE C. McMAHON

Nation building is back. Bashed by candidate Bush, President George W. Bush seems to have embraced the realization that his post–September 11 foreign policies require a renewed commitment from the United States to building the foundations for democratic, open societies in war-torn nations. The circumstances of Iraq are unique, but this is certainly not the first time the international community, led by the United States, has tried to remake a country almost from scratch, nor is it likely to be the last. In fact, many of the same actors, with strikingly similar objectives, descended on Bosnia-Herzegovina in 1995.[1] Nine years later, we are still left wondering about the effects of this international exercise in nation building. What did the international community do right? What should have been done differently? Put another way, is Bosnia a model to emulate or a cautionary tale of what to avoid? This article contends that Bosnia is both, and that the successes and failures there provide a timely test case for the efficacy of Western nation-building efforts.

Within less than a decade, Bosnia has been rebuilt and, in many ways, transformed. The strife that enveloped the country from 1992–1995 and resulted in ethnic cleansing campaigns, concentration camps, and over 200,000 casualties

[1] On the war, see David Rieff, *Slaughterhouse: Bosnia and the Failure of the West* (New York: Simon and Schuster, 1995). On international involvement and ending the war, see Ivo H. Daalder, *Getting to Dayton: The Making of America's Bosnia Policy* (Washington, DC: The Brookings Institution, 2000); and Richard Holbrooke, *To End a War: From Sarajevo to Dayton—and Beyond* (New York: Random House, 1998).

PATRICE C. McMAHON is an assistant professor of political science at the University of Nebraska–Lincoln. This article was conducted under the auspices of two grants she received from the National Research Council in 2000 and 2001. McMahon is currently working on a book on transnationalism and ethnic cooperation.

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has been replaced with a semblance of normalcy. Peace is now embraced, and there is a palpable sense of increased security throughout the country.[2] The physical reconstruction of the country has been even more successful; by early 2000, the European Stability Initiative declared that while uneven, reconstruction efforts were "remarkably successful."[3] Even refugees have started to return home; minority returns in 2002 increased by 40 percent over 2001.[4] Clearly, there is good news to report on the post-conflict reconstruction plan undertaken in Bosnia.

Critics of the international mission argue that this so-called progress is both temporary and superficial. The peace is temporary because the only thing that prevents violence is the presence of international troops; if NATO were to withdraw completely, fighting would likely resume in a matter of weeks.[5] Several years of international involvement have hardly helped economic recovery; the gross domestic product is still less than half of its prewar level, and the only engine of growth has been international assistance.[6] The transformation is superficial because the consociational democracy envisioned by the international community has failed to emerge. Bosnia is divided into two political units, dominated by three nationalist parties, and basic issues related to borders and identity are still not resolved. For many, the reality is clear: without the prodding and scaffolding provided by the international community, the Dayton agreement will fail and Bosnia will collapse.

The debate over what to do next has produced many opinions but few clear-cut answers on how the international community should proceed. One reason for this might be the lack of systematic research on the effects of international involvement in Bosnia.[7] Although hundreds of books have been published on the former Yugoslavia in the last decade, only a few deal with post-Dayton Bosnia, and even fewer address the consequences of international involvement. Think tanks based in Bosnia have produced timely analyses, but these reports are often quite dense and narrowly focused. The absence of more evaluations of the international community's role in the country's transformation is, nonetheless, surprising, given that since late 1995, the interna-

[2] Carl Bildt, "A Second Chance in the Balkans," *Foreign Affairs*, 80 (January/February 2001): 148–158; Ivo H. Daalder and Michael B.G. Froman, "Dayton's Incomplete Peace," *Foreign Affairs* 78 (November/December 1999): 106–113.

[3] "Reshaping International Priorities in Bosnia and Herzegovina," March 2001, accessed on the website of the European Stability Initiative at http://www.esiweb.org, 19 April 2002.

[4] "Bosnia: Refugee Returns are on the Rise, U.N. Agency Says," accessed on the website of the UNHCR at http://www.unhcr.ch, 16 April 2003.

[5] Lord Robertson, "The Work Ahead in Bosnia," *New York Times*, 25 November 2000.

[6] "Bosnia's Precarious Economy: Still Not Open for Business," International Crisis Group, Balkans Report No. 115, 7 August 2001.

[7] The exceptions include: Sumantra Bose, *Bosnia after Dayton. Nationalist Partition and International Intervention* (New York: Oxford University Press, 2002); David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Pluto Press, 2000); and Elizabeth M. Cousens and Charles K. Cater, *Toward Peace in Bosnia* (Boulder, CO: Lynne Rienner, 2001).

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tional community has provided some nine billion dollars of assistance to help reconstruct this small country awkwardly positioned between Serbia and Croatia. Understanding the effects of this investment should be important for policy makers, who increasingly spend their time and money on places like Bosnia. In the 1990s, for example, the international donor community spent more than $100 billion helping post-conflict countries recover from violent conflict.[8] In 2003, the Bush administration requested almost one billion dollars for democracy assistance activities alone.[9]

This article, based in part on interviews in Bosnia in 2000 and 2001 with officials from international organizations, private foundations, and representatives of local Nongovernmental Organizations (NGOs) and on secondary sources, attempts to assess international strategies for bringing Bosnia back.[10] I argue that although these efforts have not resolved Bosnia's domestic problems, neither have they completely failed. The evidence presented here demonstrates the achievements, the shortcomings, but most of all the complexities of nation building. It also illustrates that outcomes are never one-sided and that the international community's involvement in the domestic affairs of any country will inevitably have multiple intended and unintended consequences. Nation-building efforts in Bosnia have not been a complete success for a variety of reasons. Here, I focus on problems associated with implementation of international strategies as well as on fundamental flaws with strategy design. I argue that whereas the former impede the Western mission in Bosnia, problems of design are different because they undermine the very goals of the nation-building endeavor. Flawed strategies require a reassessment of goals, means, and resources, but both sets of problems point to the need for flexibility and to the importance of contextual strategies.

Bringing Bosnia Back

In 1996, after more than three years of fighting and only because of a change of heart in U.S. policy, a peace plan was brokered that created the military and political conditions necessary to end the violence. The Dayton Peace Agreement described in general terms the role the international community would play in Bosnia. Although heavily influenced by the United States and Western Europe, Dayton indicated that other stakeholders, like Russia and

[8] Shepard Forman and Steward Patrick, "Introduction" in Shepard Forman and Steward Patrick, eds., *Good Intentions—Pledges of Aid for Postconflict Recovery* (Boulder, CO: Lynne Rienner, 2000), 1–33.

[9] Robert Orr, "Governing When Chaos Rules: Enhancing Governance and Participation," *The Washington Quarterly* 25 (Autumn 2002): 139–152.

[10] Information on intergovernmental and nongovernmental organizations comes from organizations working in Bosnia or from their websites. In addition, some sixty interviews were conducted by the author with groups in the United States and Bosnia. In Bosnia, the interviews took place in the Federation cities of Sarajevo, Mostar, Zenica, and Travnik, 15–30 September 2000 and 9–30 July 2001.

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Turkey, would also play a role in rebuilding Bosnia. For the purposes of Dayton, the "international community" includes three categories of actors: national governments (primarily those on the Steering Board of the Peace Implementing Council [PIC]); intergovernmental organizations; and international NGOs. In Bosnia, these actors are represented by the Sarajevo-based Office of the High Representative (OHR), which was created to coordinate and implement the will of the international community. In the years since, this concoction of governments and international bodies has devoted itself not merely to reconstructing Bosnia but to recreating it anew. The international plan in Bosnia is comprised of three elements: concerted military action; a political compromise that resulted in the division of the country into two semiautonomous units (the Federation and the Republika Srbska); and promises that the international community would remain intimately involved in the country's development. Taken together, the military solution, the institutional solution, and the civil society solution represent different, albeit reinforcing, ways of rebuilding fragile, war-torn countries.

The immediate goal was to stop the bloodshed and ethnic cleansing, and in its wake, the international community would establish a stable, multiethnic state. Inherent in this vision was ethnic reconciliation, or the hope that the groups once at war would reconcile themselves to the past and anticipate a shared future.[11] Toward this ambitious undertaking, the international community devoted substantial resources; for example, about $1,200 per person was made available for the rebuilding of the country, or about nine times the Marshall Plan.[12] While pecuniary commitments are easier to calculate, the symbolic importance of Bosnia is more difficult to estimate. Western involvement in Bosnia represented nothing less than a new, post-Cold War agenda, one that was broad in scope and relied on both top-down and bottom-up strategies for managing ethnic strife. Put differently, resolving problems in Bosnia was central to the development of a new sense of purpose for the West, but particularly for NATO.[13]

The Military Solution

Led by the United States and backed by NATO, the international community relied largely on coercion to get the governments of Serbia, Croatia, and Bosnia to sign a peace agreement. Thus, the first and central task of the international community was to consolidate the peace.[14] Annexes 1 and 2 of the Dayton Agreement govern the cessation of hostilities, regional stability, and boundary

[11] Andrew Rigby, *Justice and Reconciliation After the Violence* (Boulder, CO: Lynne Rienner, 2001), 15–30.

[12] Roberto Belloni, "Civil Society and Peace Building in Bosnia-Herzegovina," *Journal of Peace Research* 38 (March 2001): 163–180.

[13] Daalder, *Getting to Dayton*, 188.

[14] Cousens and Cater, *Toward Peace in Bosnia*, 53.

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demarcation, entrusting NATO with responsibility for the multinational force that would be used to guarantee the peace. In the past nine years, this military presence has been the most important external player in the remaking of this state. The Implementation Force (IFOR) initially consisted of 60,000 troops from thirty-six countries. With a one-year mandate, IFOR was given four related responsibilities: bringing about and maintaining an end to hostilities; separating the armed forces of Bosnia's two state entities; delineating and transferring territory between the entities; and moving the parties' forces and weapons into storage sites.[15] By all accounts, IFOR completed its narrowly defined military mission within a matter of months.

In January 1997, its one-year mandate was extended; its successor, the Stabilization Force (SFOR), was given a broader mission, even though the number of troops dropped to about a third of the original number. As suggested by its new title, the Stabilization Force would contribute to a secure environment within which civilian agencies could continue to carry out the process of economic development, reconstruction, developing political institutions, and creating an overall climate of reconciliation."[16] This revised mandate implied NATO's assistance in providing security for national and municipal elections and promoting transparency among the country's three armed forces. It also encouraged SFOR to develop ways to help Bosnia wean itself from its dependence on an external military force. For example, the peace agreement had mandated the creation of a Standing Committee for Military Matters to bring the country's three main ethnic groups together to discuss security and defense issues. Because the Standing Committee never materialized, SFOR initiated a Security Cooperation Program in 1997 to stimulate dialogue among groups, lay the foundation for the Standing Committee, and ensure democratic standards for Bosnia's future military. Whereas NATO was in charge of military and defense matters, Dayton entrusted the United Nations with providing security for the general population. The UN International Police Task Force took a leadership role in reforming and uniting Bosnian law enforcement agencies.[17] However, the challenges of providing law and order in Bosnia proved too great for the unarmed voluntary UN force, and in 1998, SFOR also became involved in civilian security, creating an armed, multinational police force to assist the UN force. In the summer of 2000, the PIC identified a future security framework, calling for the genuine transformation of the Standing Committee into a state-level defense institution, the development of sustainable force structures consistent with the security needs of Bosnia, transparency of external military assistance, and the creation of a unified Bosnian army. Yet, the PIC re-

[15] The sections on military involvement were influenced by my discussions with participants of the Balkans War Conference held in Boca Raton, Florida in February 2002. Many of these participants were U.S. and British military officers who had served in the Balkans, including General Rupert Smith.

[16] "History of the NATO-led Stabilisation Force (SFOR) in Bosnia and Herzegovina," accessed on the website of NATO at http://www.nato.int, 1 July 2001.

[17] Cousens and Cater, *Toward Peace in Bosnia*, 59.

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affirmed the continued need for international actors to provide security for the country; principally NATO, but also the Organization for Security and Cooperation in Europe (OSCE) and the EU would be crucial to this future security, overseeing and monitoring the activities of Bosnian groups. As of late 2003, some 12,000 foreign troops remained in Bosnia; over half were from EU countries, while fewer than 2,000 were from the United States.[18]

The Institutional Solution

An international military presence was linked directly to the second strategy used by the international community to manage Bosnia's ethnic dilemmas: the creation of a federal state that both divided the country and kept it together. Given the military realities of the day, the agreement divided the country into the Federation and the Republika Srpska. At the same time, the country's constitution included provisions for joint political institutions, power-sharing practices, and the right of return for refugees. The Dayton framework addressed the contradiction between goals and reality by combining elements of each party's objectives.[19] In practice, this left the country separated into two monoethnic units while numerous top-down and bottom-up mechanisms were adopted to reunify the country.

Decentralization and power sharing were the twin principles underpinning the creation of a consociational-style democracy.[20] The two entities were given vast responsibilities, including primary control over the collection of taxes, education and property rights, and even defense.[21] To accommodate Bosnian Croats, power was further devolved within the Federation by the creation of ten ethnically defined units or cantons, and most power resided in the hands of local, rather than Federation, officials. To prevent any one ethnic group from dominating the decision-making process, power sharing between the country's three main ethnic groups was institutionalized by the use of ethnic and regional quotas in state institutions. Bosnia's three-member presidency, for example, requires one representative from each of the country's three constituent peoples. To maintain this balance, representatives could block legislation if it undermined the "vital interests" of a particular ethnic group. The country's bicameral legislature was similarly constructed.

[18] Morton Abramowitz and Heather Hurlburt, "Can the EU Hack the Balkans? A Proving Ground for Brussels," *Foreign Affairs* 81 (September/October, 2002): 2–7.

[19] Susan L. Woodward, "Bosnia and Herzegovina: How Not to End Civil War" in Barbara F. Walter and Jack L. Snyder, eds., *Civil Wars, Insecurity, and Intervention* (New York: Columbia University Press, 1999), 88.

[20] For more on consociationalism, see Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* (New Haven, CT: Yale University Press, 1977); Arend Lijphart, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries* (New Haven, CT: Yale University Press, 1984).

[21] Chandler, *Bosnia: Faking Democracy*, 67.

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Devising a constitutional arrangement based on the principle of national self-determination was just one part of the international community's attempt to recreate the Bosnian state. Other institutions, namely the OHR, were created to help foster interethnic peace from above, while certain practices, like minority returns, would be encouraged to recreate a multiethnic Bosnia from below. Because ethnic cleansing campaigns had been successful in separating ethnic groups and forcing them to leave their homes, Annex 7 of the agreement guaranteed to all refugees and internally displaced persons (IDPs) the unqualified right to return to their prewar homes of origin. Minority returns, in particular, were crucial because the mixing of populations was thought to cultivate moderate politicians, dilute the significance of ethnic quotas in state institutions, and, ultimately, foster reintegration.[22]

Eager for a functioning democratic government to be established in Bosnia, the international community pushed for elections to be held within nine months after the agreement was signed. As stipulated, elections took place in September 1996 for all-Bosnian, entity-level, and cantonal presidents and legislatures.[23] The adoption of a quick-start package by the international community accelerated the process of placing officials in newly created offices and initiating draft legislation that was necessary for the creation of all-Bosnian institutions, such as a central bank and common customs and tax laws.[24] Within a year, one could say that Bosnia was up and running. In reality, power was still firmly in the hands of the inheritors of the prewar nationalist parties, and political structures were already proving to be anything but a solution. In 1997, the international community stepped in and equipped the OHR with additional powers that allowed this office to become an integral institution of governance.[25] Henceforth, key decisions were not indigenously generated but instead were imposed on Bosnia by the international community.

The Civil Society Solution

Despite the importance of an international military presence and complex power-sharing arrangements, a durable peace ultimately depended on the existence of a society committed to democratic pluralism and reconciliation. In this respect too, the international community became involved. Preparing, holding, and monitoring national and local elections was only a starting point; democratic consolidation and a self-sustaining Bosnia necessitated the creation of

[22] Robert Belloni, "Blaming the Victim? The Challenge of Minority Return in Bosnia-Herzegovina," Human Rights Working Papers, No. 13, 26 March 2001, 1–34.

[23] James Hooper and Stephen Schwartz, *Is Dayton Failing? Bosnia Four Years after the Peace Agreement* (Brussels: International Crisis Group, 1999), 31.

[24] Woodward, "Bosnia and Herzegovina," 94.

[25] Florian Bieber, "Governing Post-War Bosnia-Herzegovina" in Kinga Gal, ed., *Minority Governance in Europe* (Budapest: The Open Society Institute, 2002), 321–337.

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a vibrant civil society.[26] Support for the associational sphere of interest groups, which stands between the private sphere of the family and the public sphere of the state, had become a hallmark of assistance to other post-Communist countries because of its perceived ability to challenge the state's power and foster democracy from below. In Bosnia, small investments in civil society would yield numerous benefits, such as helping to develop a culture of tolerance and interethnic moderation.[27] Developing a vibrant civil society was singled out as important because without it, "the Dayton Accords . . . and the hope of a united Bosnia and Herzegovina [would] be lost."[28]

The OSCE, the U.S. Agency for International Development, and scores of international NGOs have worked to promote civil society, largely through financial support for grassroots NGOs.[29] Local NGOs supported by the international community can be divided into two broad categories—democracy NGOs and development NGOs.[30] Democracy NGOs are organizations devoted to public-interest causes, such as human rights, the environment, and women's issues. In theory, they represent traditionally marginalized groups and mitigate extreme ideological positions. Most of the NGOs supported by the international community are development NGOs and focus on the provision of services and on social and economic development. Unlike public-interest groups that challenge the government directly and try to influence policies, development NGOs seek to build civil society in dysfunctional states by going around the state and empowering the population.[31]

Investments in civil society are assumed to be positive forces for democracy, but, in reality, it is difficult to evaluate the effects of this strategy on democratic development.[32] Scholars struggle with ways to determine when, how, and under what conditions international investments in this area can make a difference.[33] One way to conceptualize outcomes is to think in terms of micro, meso, and macro levels.[34] Using this framework, a great deal can be said about this strategy's

[26] Larry Diamond, *Developing Democracy: Toward Consolidation* (Baltimore, MD: The Johns Hopkins University Press, 1999), 218–260.

[27] Chandler, *Bosnia: Faking Democracy*, 135.

[28] David Chandler, "Democratization in Bosnia: The Limits of Civil Society Building Strategies," *Democratization* 5 (Winter 1998): 78–102.

[29] Ibid., 82.

[30] Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington, DC: Carnegie Endowment for International Peace, 1999), 207–251.

[31] Ibid., 214–215.

[32] For positive evaluations, see Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), 1–38, 199–217.

[33] See Sarah Mendelson and John Glenn, eds., *The Power and Limits of NGOs* (New York: Columbia University Press, 2002), 1–30; Michael Edwards and David Hulme, eds. *Beyond the Magic Bullet: NGO Performance and Accountability in the Post-Cold War World* (West Hartford, CT: Kumarian Press, 1996), 1–20.

[34] Imco Brouwer, "Weak Democracy and Civil Society Promotion: The Cases of Egypt and Palestine" in Marina Ottaway and Thomas Carothers, eds., *Funding Virtue: Civil Society Aid and Democracy Promotion* (Washington, DC: The Carnegie Endowment for International Peace, 2000), 21–48.

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ability to positively affect individuals and organizations in Bosnia, especially given the country's history and the dearth of independent organizations during the Communist period. Internationals and locals alike note that in post-Dayton Bosnia, NGOs are everywhere; they exist in small towns, as well as large cities throughout the country and are involved in everything from human rights to health care services to refugee returns. By 1999, over 173 international and 365 local NGOs, intergovernmental organizations, foreign embassies, and government ministries were involved in civil society work, with more than 200 of these groups identifying civil society as a specific category of their work.[35]

Fieldwork in the Federation, however, attests to two simultaneous realities: while many NGOs exist largely on paper, numerous other NGOs perform indispensable work, helping particular individuals, targeting marginalized populations, and shaping policies. Women, for example, have benefited substantially from international interest in civil society. International support has made Bosnia home to about 100 local NGOs that work on women's issues; these groups provide counseling and support for rape victims, train unemployed women, and promote women's rights.[36] However, assessing the impact that NGOs have on policy or their ability to promote democracy or reconciliation is difficult. In trying to determine the effectiveness of international involvement in civil society without hard data, a representative of the OHR's Civil Society Department uses women's organizations as his example.[37] He claims that many women's groups, supported solely by the international community, are not only helping victims of the war and raising awareness of the problems faced by the female population, but they are often leading the way for ethnic reconciliation. Sometimes it is the little things, such as a women's group that includes Croat and Muslim women sewing together, that start the process of reconciliation; these small, seemingly insignificant undertakings, he argues, are important for a return to normal life.

What Went Wrong

Balkan experts like Susan Woodward claim that Bosnia is among the most positive examples of international interest in and commitment to a war-torn country.[38] The previous section would support such a claim; international involvement has stopped the bloodshed, created a complex framework for multiethnic governance, and fostered an extensive network of grassroots organizations that provide tangible resources to individuals as well as potential channels

[35] *The ICVA Directory of Humanitarian and Development Agencies in Bosnia and Herzegovina* (Sarajevo: International Council of Voluntary Agencies, 2000).

[36] Martha Walsh, "Aftermath: The Role of Women's Organizations in Postconflict Bosnia and Herzegovina," U.S. Agency for International Development, Working Paper No. 308, July 2000, 11.

[37] Vladimir Stanisic, in an interview with Patrice McMahon, in Sarajevo, Bosnia, 25 September 2000.

[38] Zlatko Hertic, Amela Spacanin, and Susan Woodward, "Bosnia and Herzegovina" in Forman and Patrick, eds., *Good Intentions*, 315.

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through which democracy could take root. Bosnia may be testimony to what can be accomplished given a large dose of international involvement, but glaring problems and inconsistencies nonetheless remain. Creating a stable, liberal democracy where hitherto there was large-scale violence and monolithic Communist institutions is no easy feat, and the implementation of international strategies is slow and stymied by various factors. As this section explains, strategies never enjoy success in all respects. Even when achievements occur, success is complicated by oversights and unintended consequences.

A Reluctant Gendarme?

The most noticeable change in Bosnia is the sense of security that most Bosnians now feel and that foreigners require for continued involvement.[39] "The guns are silent, the respective local armed forces are collected back at their bases, and hundreds of thousands of soldiers have been demobilized."[40] Yet, on closer inspection, the shortcomings of the military solution become apparent, especially when it comes to refugee returns and the arrest of war criminals. The neglect of these issues suggests a more mixed picture of the military's involvement. While complicating the situation, this does not mean that the military mission is a failure; quite the contrary, it demonstrates the utility of a continued, long-term international military presence and the importance of modifying engagement as circumstances change.

Annex 7, which pertains to refugee returns, is the single most significant way of restoring multiethnicity to Bosnia; "all other annexes either depend on refugee returns, or were created to assist in implementing refugee returns."[41] Under Dayton, NATO is charged with providing security in support of the "free movement of civilian populations, refugees, and displaced persons."[42] Despite its authority to do so, NATO troops did not start assuming responsibility for protecting returnees until 1999—three years after troops were on the ground. Not surprisingly, refugee returns were disappointing. At the beginning of 2000, less than one-third of Bosnia's original pool of refugees and IDPs had returned to their prewar places of residence, and most of these returns were majority, rather than minority, returns.[43] Since SFOR started to assume its responsibilities, minority returns have increased steadily; for example, there were some 40,000 minority returns in 1999 but 67,500 in 2000, 92,000 in 2001, and 102,000 in 2002.[44] Although other factors also helped, SFOR is credited with being the main reason for the increase in minority returns, especially the breakthrough returns to areas of the eastern Republika Srpska

[39] Daalder and Froman, "Dayton's Incomplete Peace," 107.

[40] Peter Singer, "Bosnia 2000: Phoenix or Flames?" *World Policy Journal* 17 (Spring 2000): 31–37.

[41] Hooper and Schwartz, *Is Dayton Failing?*, 183.

[42] "No Early Exit: NATO's Continuing Challenge in Bosnia," International Crisis Report No. 110, 22 May 2001.

[43] Cousens and Cater, *Toward Peace in Bosnia*, 73–75.

[44] See the UNHCR website at http://www.unhcr.ba/return/index.htm, accessed 2 May 2003.

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(RS). Minority returns have either occurred in isolated rural communities or happened with a large SFOR presence. These numbers are indeed inspiring and demonstrate that it may be possible to restore some level of multiethnicity to parts of Bosnia. They also suggest that without an international presence, Bosnians are unlikely to return home on their own. Organizations involved with refugees, including NATO, the United Nations High Commissioner for Refugees, and the Coalition for Return, have started to rethink their assumptions and previous return policies.[45] These issues are now considered in a broader context, with greater recognition of the economic, social, and political barriers to multiethnic reintegration. Although disappointing, it is not surprising that a decade after the conflict began, many refugees have chosen not to return home. For example, in the first nine months of 2003, minority returns dropped to 39,000.[46] Refugees are reluctant for a variety of reasons: because the home they left either no longer exists or the memories associated with that home are too difficult to bear, or because of housing shortages, unemployment, and the presence of enemy nationalists in positions of power.[47] The recognition of the complexity of these issues has resulted in improved coordination between SFOR, local NGOs, and international development programs. Finally, programs have been introduced to allow individuals to sell their prewar homes easily and stay put indefinitely, instead of forcing people to return.

The military mission's record is also mixed because of its failure to arrest more war criminals. Annex 1A of Dayton requires that local authorities cooperate fully with the War Crimes Tribunal in The Hague. Although Muslims have generally done so, neither Serbs nor Croats have been as willing to hold up their end of the bargain. Unfortunately, for the first two years, neither did NATO-led troops. The Tribunal publicly indicted 112 individuals; of these, only twenty-six were arrested by SFOR, twenty-two surrendered voluntarily, and twenty-five are still at large. In and of themselves, the arrests are important, but the apprehension of war criminals, some contend, also affects refugee returns, economic development, and respect for law and order. Significantly, many Bosnians believe that the failure to arrest war criminals presents the largest obstacle to reconciliation. In meetings with the Association of Citizens "Women of Srebrenica" in Sarajevo, widows expressed their frustration with the international community in this regard. Everyone tells them to forget what happened and go home, yet they overlook the facts that Srebrenica is located in the Serb-controlled RS, their homes are inhabited by Serbs, and many of the town's most powerful officials are suspected war criminals.[48]

[45] Franjo Radman, representative of the Coalition for Return and Asim Sahinpasic, representative of World Vision, during an interview with Patrice McMahon, in Sarajevo, Bosnia, 16 July 2001.

[46] "Total Minority Returns in/to BiH From 1996 to 30 September 2003," 30 September 2003, accessed on the website of the UNHCR at http://www.unhcr.ba/return/Tot_Minority%20_GFAP_September_2003.pdf, accessed 7 November 2003.

[47] Franjo Radman, representative of the Coalition for Return, and refugees from Srebrenica, in an interview with Patrice McMahon, Sarajevo, Bosnia, 16 September 2000.

[48] The following comments are from the Association of Citizens "Women of Srebrenica" during an interview with Patrice McMahon, in Sarajevo, Bosnia, 20 September 2000.

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NATO officials disagree over the cause of SFOR's poor arrest record; U.S. officials place the blame squarely on the French, whereas French officials claim that few in Washington are genuinely interested in pursuing war criminals. Rather than point fingers and place blame, military leaders with experience in Bosnia defend NATO's behavior, explaining the practical difficulties of arresting alleged criminals in hostile places and the reality of NATO's position vis-a-vis their home countries.[49] Given SFOR's increasing responsibilities alongside its shrinking numbers, changing international agendas, and the inherent difficulties of this assignment, it is unfortunate, but perhaps not unexpected, that the arrest of war criminals has not been a priority. To compensate, international actors have not only developed policies that will help refugees put down roots where they are and, in this way, help bring closure to the past, but they have also supported local NGOs that focus on healing and reconciliation.

An Uncivil Society?

Like the military mission, the civil society solution has had notable achievements. Yet, the Bosnian state has not been transformed, and critics contend that international involvement in this area has hindered democratic development and contributed to new social problems. There is a certain paradox in external actors seeking to strengthen the civil society of another country, and problems and paradoxes are undeniably evident in Bosnian society. In a desire to jump-start the reconstruction process and get democracy under way, the international community has often made decisions in haste, pushing forward with initiatives even if these lacked domestic support or failed to produce intended outcomes. The international community descended on Bosnia in 1996 and basically threw a lot of money into the country, yet without a cohesive strategy.[50] Despite good intentions, such extensive but unfocused involvement in the country's civil society has created perverse incentives for international and local organizations alike.[51] Although impeding the goals of the international community, the problems associated with the implementation of this strategy have not fundamentally undermined them. As with the military solution, complications in civil society development reinforce the importance of improvisation and domestically appropriate strategies.

Dayton demanded that elections be held as soon as possible in order to lay the foundation for representative government. Unfortunately, rushed elections allowed little time for opposition groups to organize, and the existing nationalist parties retained and even strengthened their political position as a

[49] General Sir Rupert Smith, Deputy Supreme Allied Commander of Europe, 1998–2002, in conversation with Patrice McMahon, in Boca Raton, Florida, 22 February 2002.

[50] Vladimir Stanisic, in an interview with Patrice McMahon, Office of the High Representative, 25 September 2000.

[51] Alex Cooley and James Ron, "The NGO Scramble: Organizational Insecurity and the Political Economy of Transnational Action," *International Security* 27 (Summer 2002): 5–39.

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result. Rather than democratizing the country, the first election "gave the stamp of democratic legitimacy to many of those who had led Bosnia into the war, and whose wartime behavior left many of them with the reputation of gangsters, ethnic cleansers, and war criminals."[52] The big winners of the election shared little more than a common interest in maintaining existing power structures and sustaining ethnic divisions. In the last nine years, the power of these parties has been sustained to some degree by the international community's willingness to continue working with these individuals, on the mistaken assumption that elected nationalist elites are the "exclusive conduits between the population and the international community."[53] In rebuilding the country's infrastructure, such assumptions led to the international community's reliance on local officials, regardless of their past or their opposition to the goals of Dayton. When the World Bank entered Bosnia, for example, it did so on the basis of its "post–natural disaster" model, which meant that assistance was seen as a public good and that support was channeled through existing government conduits. The unintended result of the West's rushed, apolitical approach to political and economic development was that moderate politicians were not given an opportunity to develop a constituency and nationalist politicians gained even more control over scarce jobs and housing. Not only did nationalists profit materially from aid monies and the international community's recognition of them as legitimate leaders, but their ability to influence which companies were chosen for internationally funded reconstruction projects helped them gain loyal political followers. International assistance has profound political effects, and the outcome of working with national elected officials regardless of their political orientation is a society that still relies on connections and remains divided along ethnic lines, rather than one based on equal opportunity and the rule of law.

Instead of recognizing the consequences of such contradictory policies, the international community has seemingly left the task of challenging nationalists and transforming society in the hands of groups with the fewest resources—NGOs created to foster democracy from below. Putting such faith in NGOs appears unwarranted for at least three reasons. First, despite all the rhetoric, relatively little money has been spent on civil society development, especially when compared to investments made in other areas.[54] Second, research by David Chandler and interviews in the Federation suggest that that there is sometimes a noticeable gap between the priorities of the civil society associations supported by members of the international community and those of the Bosnian people.[55] Eager for funding, Bosnian NGOs modeled themselves on groups in the West and, as a result, some NGOs lack a domestic following

[52] Hooper and Schwartz, *Is Dayton Failing?*, 40.

[53] Singer, "Bosnia 2000," 32.

[54] Kevin F.F. Quigley, "Lofty Goals, Modest Results: Assisting Civil Society in Eastern Europe" in Ottaway and Carothers, eds., *Funding Virtue*, 191–216.

[55] Chandler, *Bosnia: Faking Democracy*, 150.

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and do not genuinely represent the interests of Bosnian society. This means that although civil society might be growing in terms of the number of NGOs that exist, there is some evidence to suggest that this society is developing according to the preferences of international donors. Finally, investments in development NGOs have the potential to replace the local public sector, thereby hindering the state's development. Because a government's success is partially a function of its ability to deliver basic services, the proliferation of NGOs providing these threatens the weak Bosnian state and undermines its ability to govern.

Scores of NGOs have been created since 1996, but many have since collapsed, and the existing NGOs remain highly vulnerable to the changing whims of the donor community. Local representatives are forced to think about what the international community wants first and then, time permitting, what domestic society needs. NGOs that have managed to stay afloat are forced to compete for dwindling international support; this competitiveness diminishes their individual effectiveness and breeds resistance to cooperation among groups that have similar objectives. Access to external funds has also contributed to new hierarchies among social groups, with those supported by the international community on top and those that are not on the bottom. Together, these realities suggest that this bottom-up approach to promoting democracy has been a mixed blessing at best, in part because these efforts too often flow from the top.

The inability of Bosnia's civil society to develop as quickly as the international community had hoped, along with the contradictory belief that the work has been done in Bosnia and it is time to move on to areas with more pressing needs, have together contributed to donor fatigue. Although the departure of international donors is certainly not welcomed by Bosnians, it has not been wholly negative. Many Bosnians have started to admit that their society has become overly dependent on the international community and that domestically generated solutions are crucial to the country's stability and future. The good news is that at least a handful of the international actors that remain involved in civil society development have put down domestic roots and are well regarded among locals, becoming genuine agents of change. These "localized international NGOs" still rely on money from abroad, but they are run and controlled by local representatives who decide on priorities and relevant strategies.

As elsewhere in the region, the Soros-financed Open Society Fund Bosnia & Herzegovina is a key actor in the country, spending over four million dollars in 2001 on programs ranging from media development to women's issues to education.[56] Although the Fund still supports civil society through the creation of local NGOs, significant restructuring occurred in 2002, and more money

[56] Soros Foundations Network Annual Report, 2001.

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has since been put into education and assessment.[57] Catholic Relief Services (CRS) represents another highly respected international NGO; after nine years of providing emergency relief, CRS has created a range of civil society programs, as well as other initiatives to promote ethnic reconciliation and democracy. CRS has had consistent access to funding and has been able to develop long-term projects to alleviate poverty and promote development. By developing a close relationship with locals who work for CRS, it has promoted interethnic cooperation and democracy indirectly through socioeconomic development.[58] A final example of an effective localized international NGO is the Coalition for Return, formed in late 1996 to help refugees and IDPs return home and retrieve property lost during the war. In the years since, it has developed into an extensive network of local organizations with some 220 members throughout the country.[59]

Problems by Design

Despite the discrete and even significant accomplishments of the military, institutional, and civil society solutions, they have not enabled Bosnia to become either self-sustaining or democratic. As the previous section detailed, the international community's efforts have been delayed, although not rendered ineffectual, by problems associated with the implementation of these strategies. What needs to be made clear is that these solutions cannot create the country envisioned by the peace agreement because the existing institutional framework prevents them from doing so. Nation-building efforts in Bosnia, as currently conceived, cannot reintegrate the country or transform its society because such strategies are, in fact, at odds with the country's governing structure, which continues at the highest levels to support the division of Bosnia. This section demonstrates why neither an external military presence nor large investments in civil society can do much to foster an independent, democratic Bosnian state unless these are accompanied by changes in the country's governing structure. Getting the institutions of governance right is so crucial to the success of nation-building efforts that when this process is undertaken incorrectly or inappropriately, as Bosnia so painfully demonstrates, it is easy to lose sight of achievements in other areas.

An Institutional House of Cards?

The international community's evolving but nonetheless sustained commitment to providing security and civil society development makes Bosnia a model

[57] Coordinator of the Civil Society Program, during an interview with Patrice McMahon, in Sarajevo, Bosnia, 10 July 2001.

[58] Catholic Relief Services representatives, during an interview with Patrice McMahon, 16 September 2000, and representatives of the CRS Civil Society Division, during an interview with Patrice McMahon, 9 July 2001, in Sarajevo, Bosnia.

[59] Franjo Radman, representative of the Coalition for Return, during an interview with Patrice McMahon, in Sarajevo, Bosnia, 15 July 2001.

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to emulate. Yet, this nation-building exercise, particularly the institutional solution embodied in the Dayton constitution, has been undertaken without a parallel, sustained commitment to ensuring the appropriateness of these institutions. It is no secret that the details of military involvement consumed most of the planning time associated with international involvement and it, rather than civilian activities, shaped the framework for the international mission. The final product, the Dayton constitution, is a complex, even inconsistent document plagued by ambiguity and highly dependent on the will of the international community.[60] Bosnia is a cautionary tale of what to avoid because of the fundamental ambivalence between partition and integration, which has created a situation that has been sustained only by the presence of an international military force and large infusions of foreign assistance.[61]

Although it is easy to forget today, the reasons for the recognition of two political entities were obvious in 1995. The international community was divided on the extent to which it was willing to rely on coercion to impose peace on Bosnia but, as Richard Holbrooke, the principle U.S. official at Dayton, notes, no better alternatives existed.[62] Coercive diplomacy was the only way for the international community to bring about a quick end to the conflict without causing further bloodshed or a massive outpouring of refugees. A central component of the institutional solution was the use of nonsovereign internal boundaries as an interim solution while an international military force restored peace. Once security was established and democratically elected officials were in place, integrative aspects of the agreement would be implemented under the supervision of the international community. Nine years later, the violence has ended and democratically elected officials are in place, but the promise of a multiethnic federal state has hardly moved forward. This is exactly why critics of Dayton claim that today's problems are caused by inappropriate institutional structures that not only fail to produce the conditions necessary for a self-sustaining peace but also have institutionalized the very problems that need to be overcome.[63] Although the Dayton framework is flawed, current dilemmas are due largely to the unwillingness of the international community to follow through on the intended plan by using its power to exploit the potential of the existing constitution. The current framework, in fact, provides numerous integrationist mechanisms that could, if implemented consistently by the international community, create a viable Bosnian state.[64]

[60] Patrice C. McMahon, "What Have We Wrought? Assessing International Involvement in Bosnia," *Problems of Post-Communism* 49 (January/February 2002): 18–29.

[61] Chaim Kaufmann, "Possible and Impossible Solutions to Ethnic Civil Wars," *International Security* 20 (Spring 1996): 136–175.

[62] Holbrooke, *To End a War*, 365.

[63] See Tony Borden's comments in his debate with Daniel Serwer, "Review Debate: Is it Time to Rewrite Dayton?" *NATO Review* 3 (2000–2001): 22–27.

[64] Jon W. Western and Daniel Serwer, "Bosnia's Next Five Years," USIP Special Report, 3 November 2000.

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As in other countries divided by religion, language, or ethnicity, the Dayton constitution created a federal system of governance based on consociational rules and norms. This political system is based on cooperation among political leaders of all significant elements of society, a minority veto, proportionality of political representation, and a significant amount of autonomy for groups in society. Elements of consociationalism were not new to Bosnia. In 1990–1991, certain informal mechanisms existed to promote power sharing among the country's ethnic groups, but the country's prewar bout of consociationalism was short-lived. Several demographic, historical, and political conditions are considered crucial to the success of this type of arrangement, including multiple cleavages, a history of elite cooperation, and informal mechanisms for power sharing. Although consociational democracies had not in the past proven to be very successful, especially in countries undergoing a transition, and although Bosnia did not appear to meet even the minimum requirements for the success of such an arrangement, the concept was nonetheless exported and imposed on the country by the international community.[65] Even if one put aside the theoretical reasons why consociationalism might not work or overlooked its problematic history elsewhere, it was apparent early on that this particular governing arrangement, especially in combination with the country's history and prevailing international inclination, would be difficult to maintain in Bosnia.

Power sharing and some degree of decentralization were necessary to get all three Bosnian parties to accept the peace agreement. As the former High Representative, Carl Bildt, explained, "What is necessary in order to make peace work is to have effective and true power sharing between the two entities and three communities.[66] Yet, the excessive institutionalization of power sharing and the devolution of power, alongside the de facto division of the country, have created not only disincentives for nationalists to cooperate but also a situation in which the national government has few responsibilities and little power. The Dayton constitution, for example, provides the entity governments with key attributes of sovereignty, including the right to raise and maintain armed forces and form special relationships with neighboring states. Because the national government is unable to levy taxes and lacks an independent source of revenue, it must rely on the goodwill of entity leaders to finance its activities. Goodwill, however, is hard to come by, given that so many leaders are bent on restricting the state's influence. In the Federation too, the devolution of power continues to frustrate this entity's ability to resolve even the most basic problems of governance, such as education policy or health care reform.[67]

Ethnic quotas, alongside the country's electoral system, which, up until very recently, prevented candidates from being elected outside their "ethnic home-

[65] For more on consociationalism, see Lijphart, *Democracy in Plural Societies*, 227–233; Larry Diamond, *Developing Democracy*, 104–111 and 312n104.

[66] Chandler, *Bosnia: Faking Democracy*, 67.

[67] Members of the health care profession, during interviews with Patrice McMahon in Mostar, Zenica, and Sarajevo, Bosnia, 16–27 September 2000.

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land," reinforced the salience of ethnic identity.[68] Other provisions, such as minority vetoes, have made it almost impossible for state institutions to pass or implement legislation. According to the OHR, because of squabbling over the agenda, approximately one-quarter of all parliamentary sessions during 1996–2000 achieved nothing.[69] Even when state legislators are able to agree on the agenda, passing legislation is difficult. Constitutional provisions have created "a formally limited but in practical terms unlimited veto for each of the major groups."[70] The Parliamentary Assembly has passed more than twenty laws, but only because the international community forced them to do so, and few of these laws have been implemented. Bosnia's three-member presidency has suffered a similar fate; although consensus building was the main reason for the creation of a joint presidency, the constitution allows any of the country's three presidents to block legislation deemed destructive to the vital interests of any group. Predictably, deadlocks and parochial interests have negated this institution's effect, as each of the presidents pursues separate foreign policies and the interests of his ethnic group. Moreover, the office of the presidency has limited constitutional power and no real administrative capacity. Similar arrangements were institutionalized into most of the state government's decision-making bodies. Yet, without refugee returns or counterbalancing institutions that would encourage interethnic cooperation or moderation, state institutions barely function. Such deadlocks did not come as a surprise to those closely involved in setting up Bosnia's governing system; by incorporating the dilemmas presented to the international community rather than resolving them, "Dayton assured that its implementation would become little more than the continuation of conflict by other means."[71]

The institutional strategy addressed short-term international needs with little consideration of the long-term implications and without specifying when and how the international community would implement integrative aspects of the peace agreement. In the last nine years, the international community has done too little to upset the temporary arrangement created to end the war. Instead of phasing out interim aspects of the peace agreement in favor of integrationist provisions meant to promote a durable peace, which are also contained in the constitution, the international community's actions have only reinforced the status quo. The current institutional solution, embodied in this "division and unification strategy" has essentially left the country's future in the hands of the OHR. Yet, the last several years demonstrate not only that the OHR is unable to resolve Bosnia's ethnic dilemmas but also that its involvement in the country's governance has created further disincentives for local leaders to cooperate with each other and has, in the process, further weakened the Bosnian state.

[68] For a similar argument, see Cousens and Cater, *Toward Peace in Bosnia*, 142–144

[69] Hooper and Schwartz, *Is Dayton Failing?*, 53n99.

[70] Steven L. Burg and Paul S. Shoup, *The War in Bosnia-Herzegovina. Ethnic Conflict and International Intervention* (Armonk, NY: M.E. Sharpe, 1999), 370.

[71] Daalder, *Getting to Dayton*, 180.

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When the OHR was created, it had no institutional base to carry out its goals. As of January 2003, it had a staff of over 700 and an annual budget of about $20 million. Its growth in numbers matches the increasing powers it has been given in recent years, as the international mission transitioned from reconstruction to economic and political reform. After two years of "working at the margins," members of the PIC decided in 1997 to broaden the powers of the High Representative. The "Bonn powers" provide the OHR with nearly unchecked power, including the authority to impose legislation and dismiss from office any public official who stands in the way of the implementation of Dayton and interethnic cooperation. Frustrated by local opposition, the OHR has increasingly implemented a "trusteeship model" of imposing peace from above. The evolving de facto practice has been to override Bosnian sovereignty in the short term in order to establish a preferred foundation for building it in the long term. Yet, despite the OHR's capacity to adopt integrationist measures contained within the constitution and to create a foundation for Bosnian sovereignty, it resists interpretations of the peace agreement that might upset the country's precarious political balance. Instead of strengthening the Bosnian government's capacity and weakening the influence of the entity governments, the OHR has fortified its own position, routinely using its powers to introduce legislation to advance international goals.

By 2001, over 100 laws and binding decisions were imposed on Bosnia by the OHR; this involvement in the day-to-day management of Bosnia has meant that the international mission to implement the Dayton Peace Agreement has never seemed as broad and open-ended as it does now.[72] Important breakthroughs aside, the OHR's actions have, paradoxically, sealed the fate of Bosnia's weak state. This "substitution effect" has made the OHR, rather than the Bosnian state, the locus for debate and decision making, and it is, thus, not uncommon for entity politicians, civil society organizations, and even members of the Bosnian government to lobby the High Representative for legislative reform. If the OHR continues to use its powers to fill in for a state that exists only on paper, the international community will continue to be a central pillar of Bosnia's domestic governing structure, ultimately undermining a main goal of the international mission—recreating an independent Bosnian state.

Lessons Learned

This article exposes the range of outcomes as well as unintended consequences inherent when international actors become intricately involved in rebuilding a country. In this regard, Bosnia is not unique; nation building always consists of ambiguities, contradictions, and trade-offs. For good or for ill, Bosnia reflects the dominant approach to nation building, which consists of international

[72] Marcus Cox, "State Building in Post-Conflict Reconstruction: Lessons from Bosnia," Report from Cluster of Competence, Geneva, January 2001, 13.

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support for a settlement between warring parties; help in setting up the country's governing structures; and economic assistance to restructure the state, financial institutions, and civil society.[73] Underpinning these elements is a liberal internationalist world view, the assumption that future states will look like secular, democratic states in the West.[74] In other words, nation building does not mean simply bringing a country back; it suggests an intention to create multiethnic, secular, and capitalist states, regardless of a country's past, its culture, or the particularities of recent history. International involvement in Bosnia illustrates the problems with this generic model and how easily the plan can go awry, and it lays bare Western assumptions that inevitably distort expectations of what the international community can realistically achieve. Although the challenges of nation building are great, chances for success might be improved if the international community abandoned its current model of nation building and instead adopted a "toolbox approach" to bringing states back.

For the United States, a toolbox approach to nation building would mean developing a range of key instruments that work together closely. This would include, for example, a military force that specializes in postconflict situations and an international civilian corps comprised of area specialists and what might be called nation-building experts. Civilian authorities would work closely with the military to help establish the rule of law and institutions of governance, and these two groups would work with a body devoted to economic policy and development. Among the numerous lessons from the international community's involvement in El Salvador is the importance of integrated strategies and close cooperation between military and civilian authorities.[75] For members of the international community, which includes national governments and intergovernmental and nongovernmental organizations, a toolbox approach to nation building would mean not only the development of similar instruments but also the use of different principles and rules of engagement. In rebuilding states, comparative advantage, or what the various international actors are best suited to do, would be considered, as well as national interests. Comparative research on nation building indicates that although success depends chiefly on the internal characteristics of the state itself, sustained political and economic engagement by an outside, interested power is essential.[76] Because indigenous ownership is a primary goal of nation building, the international community's plan must incorporate domestic actors and must fine-tune elements of the plan

[73] Marina Ottaway and Anatol Lieven, "Rebuilding Afghanistan: Fantasy versus Reality," Carnegie Endowment for International Peace Policy Brief, 12 January 2002.

[74] See Roland Paris, "Peace-Building and the Limits of Liberal Internationalism," *International Security* 22 (Summer 1997): 54–88.

[75] Robert Orr, "Building Peace in El Salvador: From Exception to Rule" in Elizabeth M. Cousens and Chetan Kumar, eds., *Peacebuilding as Politics: Cultivating Peace in Fragile Societies* (Boulder, CO: Lynne Rienner, 2001), 174.

[76] Minxin Pei and Sara Kasper, "Lessons from the Past: The American Record in Nation-Building," Carnegie Endowment for International Peace Policy Brief, 11 April 2003.

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to the particularities of the country. An important resource in any future toolbox would be local stakeholders: all those critical to the long-term success of the nation-building project must be involved in designing its building blocks. Attempts must be made to accommodate or marginalize those who oppose international objectives, rather than allowing them to become spoilers of the peace. Events in Cambodia since 1997 demonstrate what can happen when the political factions that have international legitimacy have no domestic power and vice versa.[77] Overall, the situation domestically and internationally, rather than the tools themselves, would shape the initial strategies or the international community's "entry strategy."[78]

A toolbox approach to nation building would also contain several steps or phases; evaluations of outcomes would generate a series of benchmarks and would encourage international actors to reassess the implementation of strategies and the strategies themselves. At least in some areas, such as elections and civil society development, short time horizons or frequent evaluations can easily backfire; elections held too quickly can result in nonliberal governments that hinder rule of law, and uncoordinated attempts to strengthen civil society are likely to create scores of Western-looking groups that disappear quickly. Instead of rushing to do everything at once, external actors should sequence various parts of the plan, explaining how success will be evaluated in each context and why certain areas will take more time to demonstrate progress. Institutions of governance are too important to be created overnight or to be based on principles or promises alone; they need to be designed with an eye for how institutions shape actors' expectations about the future. And if institutions do not provide the appropriate combination of incentives and constraints, they must be revised if governance is to be self-sustaining. This approach would, thus, be more sensitive to the domestic context at the beginning and throughout the process. These two components would invariably inform the international community's desired end points, or its exit strategy, but this too would be different with a toolbox approach. Rather than adopting the same goals in every situation, the international community would establish strategies based on contextually influenced goals. In Afghanistan, for example, this would mean that the international community's goals should be restoring law and order, improving the population's standard of living to a level comparable to that of a country of similar size in the region, and providing the foundations for a functioning government. By rethinking assumptions of what the international community can realistically leave behind, a toolbox approach would do a better job of balancing principles with pragmatism. Jettisoning a rigid model of nation building in favor of a more-nuanced, toolbox approach would increase effectiveness because it would recognize the inherent differences among war-torn countries, the international community's varied levels of commitment, and the need for improvisation.

[77] Michael W. Doyle, "Peacebuilding in Cambodia: Legitimacy and Power" in Cousens and Kumar, eds., *Peacebuilding as Politics*, 90.

[78] Cousens and Cater made a similar point, see *Toward Peace in Bosnia*, 152.

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We can only speculate as to what a toolbox approach might have meant if it had been adopted earlier in Bosnia, but in the last three years, we have seen important changes in the international community's behavior that indicate a move toward what I conceive of as a toolbox approach. In late 2001, for example, the OHR presented the international community's new objectives and priorities to the PIC Steering Board.[79] The plan identifies four core issue areas for international involvement, dividing up responsibilities according to the competencies of international organizations, and provides several time lines for the implementation of international objectives.

The genuine adoption of a toolbox approach would augur change in at least three areas. First, it would respond to conditions on the ground, in light of both the successes and failures of international involvement. Given the international community's success in adapting its strategies in military affairs and civil society, the institutional solution must be similarly responsive. This would *not* mean, as some contend, a revision of the constitution or a change in the country's borders, but it would mean sustained international effort to resolve the contradictions between partition and integration. Debates over whether the country should be partitioned into two or even three entities are, at this point, unrealistic. Convening yet another international conference or contemplating an agreement that would either legally divide the country or reinterpret the peace agreement would likely revive nationalism within Bosnia and further frustrate the international community. The only way forward is to take steps to make Bosnia a more coherent and legitimate state capable of indigenous governance within its current borders. This is the reason why the international community rarely talks anymore about an end date but instead about changing underlying conditions and an end state. The best way to make the Bosnian state more coherent and legitimate is to make borders less relevant between the two entities and focus on creating the conditions necessary for domestic institutions of governance to become self-enforcing.[80]

Coherence means endowing the Bosnian state with functioning central institutions and gradually but consistently weakening the power of the entities. The Constitutional Court's ruling in 2000 on constituent peoples is a good example of how this can be done; with the international community's support of this decision, Bosnians now have full constitutional rights in both entities.[81] Among the other ways the international community could challenge entity-based structures would be to provide the central government with a source of revenue that is independent of the entities and to limit the latters' right to conduct independent foreign policies. International aid should be given to Bosnian institutions to dole out to the entities, and this should include targeted

[79] "Bosnia: Reshaping the International Machinery," International Crisis Report, No. 121, 29 November 2001.

[80] Paddy Ashdown, "What I Learned in Bosnia," *New York Times*, 28 October 2002.

[81] "The Constituent Peoples' Decision in Bosnia-Herzegovina," International Crisis Report, No 128, 16 April 2002.

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assistance to help create an all-Bosnian common market. Economic development is too often overlooked while the international community focuses on political development. Rather than assume that peace and an appropriate government should come before economic programs develop, the international community should strategically deploy economic assistance to foster incentives for local leaders to make peace in their own rational self-interest.[82]

Making the Bosnian state more legitimate will be more difficult but is also tied to the international community's institutional solution. The substitution effect, or the semiprotectorate that has evolved in Bosnia, is clearly not the answer, and removing elected but uncooperative Bosnian officials from office, as the High Representative has done in recent years, not only undermines the state's authority but also is clearly undemocratic. The El Salvador success story speaks volumes to the need for the international community to keep the onus for peace and governance on local parties and to steadily reduce its own influence.

Second, by thinking about nation building in terms of phases or a dynamic process, a toolbox approach in Bosnia would consider new incentives and different strategies in light of changes in the region in the past nine years. Again, this relates directly to the need for the international community to modify its institutional solution. More attention should be paid to the similarities between Bosnia and other former Communist states and to what has helped these states move toward stability and democracy. In other post-Communist countries, the international community has not only recognized the importance of sequencing aid but also has rethought its assumptions of what the international community can realistically achieve. Western involvement in the East has gone through several distinct phases, from direct assistance for economic and political reform, to civil society development, to a greater emphasis on the need for regional solutions to the countries' economic, political, and ethnic problems. Because the existing Bosnian institutions have failed to establish an incentive structure that discourages political elites from operating in support of ethnic claims, the international community must think of other ways to redefine loyalties and, if possible, create new identities. In other words, as internal borders between the entities become less important, the international community should continue to emphasize a regional approach in Bosnia, making its external borders less relevant. The Dayton Agreement was also signed by Croatia and Serbia; relying on these and other neighbors to help Bosnia move forward might be a useful way out of the current stalemate. The Balkan Stability Pact, launched in 1999 by the European Union, might be an appropriate venue for getting Bosnian politicians to cooperate while also getting their neighbors on board. The European Union and the OSCE are well positioned to help Bosnians create

[82] Susan Woodward, "On War and Peace-Building: Unfinished Legacy of the 1990s," accessed on the website of the Social Science Research Council at http://www.ssrc.org/sept11/essays/woodward.htm, 17 April 2003.

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constituencies that would look to European institutions, standards, or processes. Given the track record of the EU, the OSCE, and the Council of Europe in getting other post-Communist states to tap into and nourish their latent European identity, these initiatives may provide an effective way of moving Bosnia forward.[83] The United Nations recently handed over its policing duties to the European Union, and this will mean that the EU will be the most represented international actor in Bosnia. Bosnians need to be made aware of the minimum standards for EU membership, but they also need long-term commitments from both the EU and the United States to help with the implementation and regulation of these standards. Most of all, Bosnians need to know the implications of behavior that runs contrary to European norms and expectations and, if necessary, suffer the consequences of bad choices.

Finally, a toolbox approach to nation building would be more cognizant of achievable rather than ideologically tainted end points. The gap between Dayton's aspirations and achievements to date has confused some and frustrated most, many of whom now believe that it is time to move on to other, more urgent crises. There is some evidence to suggest that the international community has started to recognize the need to make the most of the resources and opportunities at hand to do what it can before time and resources run out. In recent years, the concept of "recalibration" has taken shape, and governments, intergovernmental organizations, and NGOs have started to work together, identifying the strengths and weaknesses of international involvement.

If nation building is indeed back, and all signs point in that direction, we must put the lessons learned in Bosnia to good use as the rebuilding of Kosovo and Afghanistan continue and nation building in Iraq begins. Such diverse challenges require a range of strategies, and international efforts will go much further if the international community adopts a toolbox approach to bringing states back. A toolbox provides not only an array of instruments to be used, depending on the international situation and local conditions, but also different ideas and rules of engagement. Yet, as we rethink our means for bringing countries back, we must also reexamine our ends, or the goals of nation building. Although multiethnic, secular, and democratic states are worthy objectives, assuming these to be the goal of the international mission not only causes problems during implementation but can, ultimately, undermine our main objectives. At the core of the international community's frustration with Bosnia is the fact that ending wars and making peace inherently require different strategies and diverse international solutions. Too many want results instantly and expect a quick turnaround on their investment, and this attitude has not only hindered the recovery effort in Bosnia but has also rewarded those whose actions initially led to the conflict. In a post–September 11 world, the lack of

[83] Jacques Rupnik, "Eastern Europe: The International Context" in Marc F. Plattner and Aleksander Smolar, eds., *Globalization, Power, and Democracy* (Baltimore, MD: The Johns Hopkins University Press, 2000), 57–79.

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immediate results does not allow us to give up on nation building. Nine years in Bosnia demonstrate that the international community must accept the fact that successful nation building takes time, and that to ensure long-term results, strategies must be flexible, contextually driven, and based on outcomes that are historically realistic.

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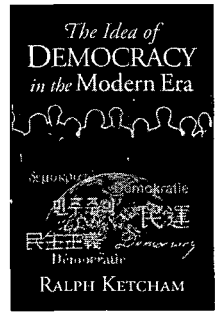

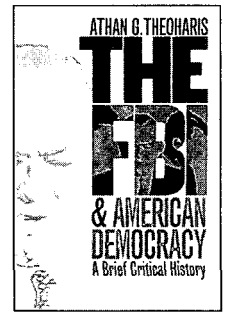

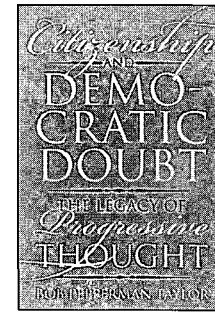

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The Iraqi Intervention and Democracy in Comparative Historical Perspective

EVA BELLIN

Is military occupation likely to be the midwife of democracy? Can democracy be imposed by force from the outside? This is the assumption driving America's intervention in Iraq and posited as a potential new pillar of ambition for U.S. foreign policy elsewhere. But is this assumption historically grounded? The architects of the Iraqi intervention point to the success of America's occupation of postwar Germany and Japan as evidence that occupation *can* deliver on democratic objectives. But careful examination of the historical record suggests that we should be tentative about drawing lessons from these cases to guide our endorsement of military occupation today. Germany and Japan began with a set of endowments, many of them anticipated by democratic theory, but others peculiar to the cases' unique historical context and time, that favored democratic outcomes. These endowments are not replicated in Iraq, nor does military occupation guarantee them elsewhere. Cases of occupation more comparable in initial endowment to Iraq suggest more pessimism about occupation's capacity to deliver democracy. Historical experience suggests that although military occupation may increase the likelihood of democratization, and wise policy choices certainly improve its chances, the outcome is largely shaped by factors, both domestic and international, that cannot be controlled by military engineers operating within the confines of current cultural norms and conventional limits of time and treasure.

To elaborate upon this argument, this essay will begin by identifying the essential noncomparability of the German, Japanese, and Iraqi cases. Given their dissimilarities, it seems an oddly selective reading of history to focus on the

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German and Japanese occupations (out of a much larger universe of cases) to draw lessons about occupation's political potential in Iraq. The essay will then turn to two other cases of occupation better (although not perfectly) matched in initial endowments to Iraq: Haiti and Bosnia. This comparison will suggest some pessimism about military occupation's capacity to deliver democracy. The essay will conclude with lessons, both positive and negative, about occupation's potential contribution to democratization that can be gleaned from the German and Japanese cases. Although military occupation cannot fashion democracy out of whole cloth, it nevertheless can steer countries in a democratic direction through wise policy choices.

Noncomparable Cases

It is highly problematic to use the military occupation of Japan and Germany as the standard of comparison for occupation's potential to deliver democracy in cases such as Iraq.

The comparison is ill-conceived, primarily because the starting conditions that characterize these cases are dissimilar in ways that are crucial for democratic outcomes, favoring them in Japan and Germany and disfavoring them in Iraq. As such, they obscure the independent impact of military occupation as a force for democracy. At least five of these starting conditions are factors anticipated by democratic theory that alone would have made us optimistic about democracy's chances in Germany and Japan, irrespective of foreign intervention. Several other factors favored democratic outcomes in the postwar cases that were specific to the historical context and time in which these occupations occurred and are unlikely to be replicated in contemporary cases of occupation. All told, eight factors will be identified that make for crucial noncomparability of these cases and that counsel wariness about drawing historical lessons too hastily.

The most obvious dissimilarity between our cases, and one that is crucial for democratic outcomes, is their dramatically different levels of economic development. Prior to the outbreak of World War II, both Germany and Japan were great powers. Both were highly industrialized countries with developed economies that boasted impressive GNP per capita.[1] And although the war devastated much of the physical capital in both countries, Japan and Germany retained the human, organizational, and social capital (that is, skilled workers, skilled managers, and social networks) that is the lynchpin of economic development. As the economist Luigi Zingales has written, Japan and Germany in the aftermath of World War II were akin to a firm whose plant has burned down. To restart the enterprise, all that was needed was an infusion of financial capital to rebuild the plant, a comparatively simple prospect.[2]

[1] Andrew Gordon, *A Modern History of Japan from Tokugawu to the Present* (New York: Oxford, 2003); John Killick, *The United States and European Reconstruction, 1945–60* (Edinburgh: Keele University Press, 1997).

[2] Luigi Zingales, "For Iraq, A Plan Worthy of Zambia," *The Washington Post*, 9 November 2003.

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By contrast, a country such as Iraq has never achieved an advanced level of economic development. Although the country has enjoyed the bounty of oil wealth, it has not yet developed into an advanced industrialized country, and it is woefully lacking in the social and human capital essential to such ambition. To continue Zingales's metaphor, Iraq is not like a firm whose plant has burned down. Rather, it is akin to a firm putting its business together from scratch. This is a much more daunting objective, especially given the reality that in the United States at least, nearly 70 percent of all new businesses fail within their first five years.[3]

Democratic theory suggests that this differential level of economic development has a huge impact on democratic outcomes. One of the most robust findings of twenty-five years of political science rumination on democratization is that durable democracy is strongly correlated with economic development. The reasons are complex and not fully fleshed out, but statistically, it seems irrefutable that democracy is most likely to flourish and survive when a country enjoys more than $5,500 per capita GNP.[4] This is not to argue that economic development is either a necessary or a sufficient condition for *transition* to democracy. Contrary to the modernization school, Adam Przeworski et al. have shown that, statistically speaking, such a transition can occur at any level of economic development. But for democracy to *endure*, historical experience suggests that the chances for democratic survival are directly linked to per capita GNP. They are most favorable once a country surpasses the $5,500 mark.[5]

Now, truth be told, none of our cases, not even Germany and Japan, had achieved this level of wealth at the time of occupation.[6] But Germany's and Japan's endowment with rich supplies of human and social capital meant that both countries were capable of absorbing foreign aid effectively and taking advantage of growth opportunities (such as the Korean War boom) to grow so rapidly that, in retrospect, their experience has been dubbed an economic miracle.

[3] Ibid.

[4] Adam Przeworski, Michael Alvarez, Jose Cheibub, and Fernando Limongi, *Democracy and Development* (New York: Cambridge University Press, 2000), 98.

[5] This is not to argue that a per-capita GNP of $5,500 is a *necessary* condition for democratic survival in countries where democratic transition has already taken place. Many strong, durable democracies, including the United States and Great Britain in the eighteenth and nineteenth centuries and India in the twentieth, have survived on much less. Rather, Przeworski et al. simply present the statistical finding that based on past historical experience, the probability that a democracy will collapse into authoritarianism falls to near zero in the per-capita GNP income range of $4,000 to $6,055. This per-capita GNP appears to be a *sufficient*, although not a *necessary*, condition for democratic survival, once transition to democracy has already occurred. For a more extended discussion of the relationship between economic development and democratization (specifically focused on the Middle East), see Eva Bellin, "The Political-Economic Conundrum: The Affinity of Political and Economic Reform in the Middle East and North Africa," Carnegie Endowment for International Peace, Working Paper, September 2004.

[6] In fact, neither had achieved this level of GNP even at occupation's end. Japan's per-capita GNP at the time of democracy's inauguration in 1952 was only $1,768 (in 1985 PPP USD). Germany's per capita GNP at the time of democracy's inauguration in 1949 was $2,567. See Przeworski et al., *Democracy and Development*, 108–109.

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Iraq's relative poverty in these endowments means that even with aid (and oil rents), economic development is doomed to be slower, postponing the day when the country will enter the statistically surest zone of democratic stability.

The second factor that distinguishes the Japanese and German cases from that of Iraq is the dramatically different levels of ethnic homogeneity found in their societies. Japan and Germany were relatively homogenous ethnically. Both countries enjoyed significant consensus about their national identity, and both could count on a fair degree of social solidarity in their societies. There was no need for "nation building," to use a term now recurrent in contemporary political discourse. If anything, an overweening sense of nationalism characterized both Japan and Germany and accounted for their headlong venture into war in the 1930s.[7]

The same cannot be said of Iraq. Although a sense of Iraqi identity exists among Iraqi citizens, this is a country deeply divided along three primary cleavages: Shia, Sunni, and Kurdish. The social divide between these groups was exacerbated by the policies of Saddam Hussein's regime, which seized upon these cleavages, as well as other primordial loyalties like that of tribe, to solidify its own hold on power.[8] Deliberate state practice of privilege and prejudice meted out along primordial lines fueled suspicion and distrust among the different communities of Iraqi society.

Democratic theory suggests that ethnic homogeneity is an important factor in shaping democratic outcomes. As constitutional scholar Ivor Jennings said, "The people cannot decide until someone decides who are the people."[9] Conventional wisdom in the field suggests that some consensus about national identity, that is, some degree of social solidarity, is necessary to prevent the inherently conflictual nature of the democratic process from tearing a country apart.[10] The fact that Germany and Japan enjoyed this ethnic homogeneity while Iraq does not suggests that conditions are less propitious for democratic outcomes in the latter.[11]

A third major source of dissimilarity between our cases is their differential endowment with effective state institutions. Both Germany and Japan emerged

[7] Thanks to Charles Maier for this insight and the reminder of the hypernationalism that characterized both Germany and Japan in the 1930s and 1940s.

[8] Amatzia Baram, "Neo-Tribalism in Iraq: Saddam Hussein's Tribal Policy," *International Journal of Middle Eastern Studies* 29 (February 1999): 1–31.

[9] Ivor Jennings, cited in Dankwart Rustow, "Transitions to Democracy: Towards a Dynamic Model," *Comparative Politics* 2 (April 1970): 337–363.

[10] For a dissenting view, see Steven Fish and Robin Brooks, "Does Diversity Hurt Democracy?" *Journal of Democracy* 15 (January 2004): 154–166. By the authors' own admission, this study is preliminary and contradicts conventional wisdom in the field.

[11] Asserting that Japan and Germany were ethnically homogenous is not to deny that both countries were characterized by deep divisions along ideological lines at this time. Historically, however, ethnic cleavages have proven to be the most difficult cleavages to bridge and the most dangerous to the integrity of new democracies. See Juan Linz, "Totalitarian and Authoritarian Regimes" in Fred Greenstein and Nelson Palsby, eds., Handbook of Political Science, vol. 3 (Reading, MA: Addison-Wesley Publishing Company, 1973), 330–333.

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from World War II with meritocratically organized, rule-bound state institutions intact. Both possessed an effective police force, judiciary, and civil service with which to govern. Germany, after all, had been the paradigmatic bureaucratic state, and the Nazi regime did not dismantle these bureaucracies, but rather ruled through them during its twelve-year reign. Once the war was over, these state institutions were there to be mobilized by the occupation forces after limited de-Nazification.[12] Similarly, in the case of Japan, the country had a strong state bureaucracy that survived the war and that was immediately available for mobilization by the occupation forces. The occupation forces eagerly seized upon this resource because the Americans were woefully underequipped with proficient Japanese speakers and Japan experts to run the country on their own.[13]

By contrast, Iraq is sorely lacking in effective, meritocratically organized, rule-bound state institutions. The state under Saddam was patrimonially organized, riven with corruption, and driven by politics and loyalty tests, rather than merit.[14] As a result, many key institutions, especially the police and the judicial system, have to be rebuilt from the bottom up.

This is a huge task, but it is an absolute prerequisite for successful democratization. As case after case of failed democratization in the postcolonial world has shown, order is prior to liberty. Before democracy, you must have a state of law, with effective state institutions that can deliver fair, predictable order to citizens.[15] Democracy cannot flourish in a context of chaos, as countless cases of failed democratization from Haiti to Somalia have shown. Here, too, Iraq is sorely disadvantaged in its quest for democratization when compared to the cases of Japan and Germany.

A fourth major source of dissimilarity between our cases concerns historical precedent, and most importantly, the degree to which the country cases have had prior experience with meaningful democracy. As democratic theorists have learned, history matters. The record of democratic transition around the world over the past thirty years indicates that the countries that have had the most success in democratizing in Eastern Europe, in Latin America, and elsewhere are countries that have had some prior experience of democracy to draw upon in building their new regimes.[16]

[12] Edward Peterson, *The American Occupation of Germany: Retreat to Victory* (Detroit, MI: Wayne State Press, 1977).

[13] John Dower, *Embracing Defeat: Japan in the Wake of World War II* (New York: W.W. Norton, 1999), 212; T.J Pempel, "The Tar Baby Target: 'Reform' of the Japanese Bureaucracy," in Robert E. Ward and Yoshikazu Sakamoto, eds., *Democratizing Japan: The Allied Occupation* (Honolulu: University of Hawaii Press, 1987).

[14] Kanan Makiya, *Republic of Fear: The Politics of Modern Iraq* (Berkeley: University of California Press, 1989).

[15] The best-known contemporary statement of this position is found in Samuel Huntington, *Political Order in Changing Societies* (New Haven, CT: Yale University Press, 1968). Thomas Hobbes's *Leviathan* offers the classical rendition.

[16] Thomas Carothers and Bethany Lacina, "Quick Transformation to Democratic Middle East is a Fantasy," Seattle Post-Intelligencer, 16 March 2003.

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In this endowment too, Japan and Germany were advantaged, compared to Iraq. Both Japan and Germany had had significant experience with democratic rule prior to World War II. This is not to deny the fact that Weimar democracy and Taisho democracy were seriously flawed.[17] Nevertheless, under these regimes, both countries had developed consequential party structures, extensive experience with a critical press, and familiarity with competitive elections. The presence of the Social Democratic party and the Zentrum in Germany and the Minseito and Seiyukai in Japan proved especially consequential as precedents for electioneering and the political mobilization of a popular base. In short, both Japan and Germany had crucial political institutions, practices, and habits of mind to call upon when building their new democracies in the postwar period.

The same cannot be said of Iraq. Although it is true that the country had a brief experience with competitive elections under the British mandate in the 1920s and early 1930s, this was largely an elite charade manipulated by the colonial overlord. Under the Hashemite monarchy, the depth of parliamentary experience did not go much deeper.[18] Since 1958, with the installation of military rule, Iraq has only known rule by force. As a consequence, there are few institutional remnants or habits of mind from the preauthoritarian period to draw upon today to help build democracy in Iraq. Most notably, there are no party institutions to resurrect today. Their replacement by cliques of ethnic or religious elites sorely handicaps the chances of vibrant democracy in the country.

The fifth major dissimilarity that distinguishes our cases stems from their differential endowment with leaders of national stature capable of sponsoring the democratic process. One of the most striking elements in the story of the Japanese occupation was the central role that Emperor Hirohito played in helping along the democratic project in that country. It was his endorsement, his imprimatur, his association and identification with the democratic project that persuaded many conservative Japanese to go along with it, despite their misgivings.[19] Other leaders, such as Yoshida Shigeru, Ashida Hitoshi, and Ishibashi Tanzan, also played key roles in this process.[20] In Germany, leaders with national stature, such as Konrad Adenauer and Kurt Schumacher, were central to their country's turn to democracy. These men enjoyed extra legitimacy because they did not go into exile during the war but rather stayed the course in Germany, suffering persecution at the hands of the Nazis. Their embrace of the democratic project after the war helped anchor it at home.[21]

[17] Eberhard Kold, *The Weimar Republic* (London, Unwin Hyman, 1988); Bernard Silberman and H.D. Harootunian, eds., *Japan in Crisis: Essays in Taisho Democracy* (Ann Arbor: Center for Japanese Studies, University of Michigan, 1999).

[18] Charles Tripp, *A History of Iraq* (New York: Cambridge University Press, 2000).

[19] Dower, *Embracing Defeat*, 330, 363.

[20] John Dower, *Empire and Aftermath: Yoshida Shigeru and the Japanese Empire, 1878–1954* (Cambridge, MA: Council of East Asian Studies, Harvard University, distributed by Harvard University Press, 1979). Thanks to an anonymous reader for suggesting the importance of these figures in Japan's transition to democracy.

[21] Hans Peter Schwartz, *Konrad Adenauer* (Providence, RI: Berghahn Books, 1995).

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What is problematic in the Iraqi case is that there is a shortage of leaders of national stature who did not go into exile during Saddam's rule and who might endorse and shepherd the democratic project. Grand Ayatollah Ali al-Sistani is one potential figure, but his stature is largely limited to the Shia community. Democratic theory suggests that this is a serious deficit. The commitment of elites is central to successful democratization. Even elites not existentially committed to democratic values can often play a crucial role in this process.[22]

Thus far, the five factors that differentiate our cases—level of economic development, ethnic homogeneity, strength of state institutions, historical experience, and elite leadership—are all factors that democratic theory would anticipate as key to shaping the success or failure of democratization. Germany's and Japan's positive endowment in these areas predisposed these countries to successful democratization (although clearly the occupation played an important role in ensuring this outcome rather than an authoritarian one). Beyond this, however, there are three additional differences that favored democratic outcomes in Germany and Japan that are not anticipated by general works of democratic theory. These conditions sprang from the particular time and place of the German and Japanese occupations and are not easily replicable today.

The first of these context-specific factors concerns the psychological state of the occupied at the time of occupation. What is most striking in the historical accounts of Japan and Germany in the immediate postwar period was the sense of utter defeat and desperation that pervaded their societies. Both Japan and Germany had suffered the firebombing of major cities, the loss of many lives, and the specter of starvation. In Japan, more than three million people had been killed in the war, over sixty-four cities had been bombed, nuclear attack had destroyed Hiroshima and Nagasaki, and millions of people were homeless.[23] In Germany, seven million Germans had died during the war, a huge refugee crisis loomed, the economy had collapsed, and hunger haunted nearly everyone.[24] This defeat and misery created a state of psychological crisis in both countries, a critical juncture that broke down old conventions and made people receptive to new ideas and approaches, especially ideas and approaches that seemed to be associated with hope and liberation from misery. As noted historian John Dower informs us, the Japanese referred to the American occupation as the "liberation," that is, liberation from death and from "the fifteen year war" (because their military effort began in the early 1930s with the intervention in Manchuria). The Japanese and Germans were eager to break with the past and embrace something new.

[22] John Waterbury, "Democracy without Democrats" in Ghassane Salame, ed., *Democracy Without Democrats: The Renewal of Politics in the Muslim World* (New York: I.B. Tauris, 1994); Giuseppe di Palma, *To Craft Democracies: An Essay on Democratic Transitions* (Berkeley: University of California Press, 1990).

[23] Dower, *Embracing Defeat*, 87–120.

[24] James Dobbins, John McGinn, Keith Crane, Seth Jones, Rolie Lal, Andrew Rathmell, Rachel Swanger, and Anga Timilsina, *America's Role in Nation Building* (Santa Monica, CA: RAND, 2003); Thomas Berger, "The Occupation of Germany and Japan as State-Building Lessons for the 21st Century," (unpublished manuscript), 8.

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By contrast, Iraq has not experienced that same shock of utter defeat and crisis. America's victory over the Iraqi military was certainly irrefutable, but the war's duration was relatively short and the civilian casualties were, thankfully, limited. This lessened the sense of crisis. And although the Iraqis had suffered many years of severe hardship prior to the war, including food shortages, medical supply shortages, and progressive impoverishment due to international sanctions and the corruption of their own regime, this suffering was more akin to a slow bleed than a shocking mortal blow. This is important because a slow bleed practices people in coping mechanisms. In contrast to a cataclysmic mortal shock, it does not create the same psychological receptivity to dramatic change. This difference in psychological state made the Japanese and German societies more amenable to embracing a new political project under occupation auspices than has been the case for Iraqi society.[25]

The second context-specific factor that distinguishes these cases concerns the different level of commitment on the part of the occupiers to seeing their occupation project through. In Japan and Germany, the United States was in it for the long haul. The United States went into both countries intending to stay for several years and committed to investing millions in treasure and manpower in order to establish stable democratic regimes. The American occupation of Japan lasted more than six years and involved deployment of over a million Americans. In Germany, a comparable investment was made. In part, this commitment was a consequence of the horror of the Second World War and the deep desire by the United States to uproot those regimes whose hyperaggressiveness had spelled destruction on such a massive scale. But equally important was another time-specific issue: the heightening of the Cold War. Soviet expansionism in Eastern Europe and the outbreak of the Korean War in Asia made tangible the fear of Communist threat and deepened America's commitment to establishing stable democratic allies in Germany and Japan. Central to the staying power of these American occupations was the irrevocable pairing of idealism and interest, idealistic commitment to spreading democracy as well as realpolitik interest in containing Communism.

In the case of America's intervention in Iraq, we see a much slimmer commitment to seeing this political project through. We are rhetorically committed to democratization in Iraq, but the pairing of this ideal to our realpolitik interests in the country is much more tenuous. Our meager engagement in Iraq's democratization is reflected in the measure of resources we are willing devote to this venture, most notably, in terms of time. The United States is committed to a much shorter intervention in Iraq than was the case in Japan or Germany. For example, the administration was intent upon handing over sovereignty to the Iraqis by June 2004, that is after fourteen months, not six years, of occupation.

[25] For a similar argument stressing the importance of crisis as a critical political–cultural juncture, see Thomas Berger, *Cultures of Anti-militarism: National Security in Germany and Japan* (Baltimore, MD: Johns Hopkins Press, 1998).

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This is not to imply that America should prolong its occupation in Iraq or that prolonged U.S. occupation would bolster the chances of democracy there. America's association with colonial domination and its illegitimacy in the Arab world taint any of its political projects for the region, no matter how well-intentioned. Multinational supervision à la Bosnia would be more promising. But the point is simply that fourteen months of intervention is a relatively short period of time to deliver on a complex goal like democratization. Here again, Iraq is dissimilar to the Japanese and German precedents and is disadvantaged in achieving the desired political outcome.

The last dissimilarity that distinguishes our cases springs from a time-specific factor that I will call dictatorial freedom of occupation. One of the most remarkable aspects of the occupation of Japan and Germany was the relatively free hand the occupation forces enjoyed in imposing policy on the conquered country. This was especially dramatic in the case of Japan. There, the occupying forces wrote a new constitution for the country and essentially handed the document down to the occupied, with little local consultation.[26] In addition, the occupying forces rewrote laws, reshaped property rights, and reorganized gender relations in ways that are quite astonishing today for their radicalness and their dictatorial quality.[27] In Germany, the occupying forces had the luxury of postponing national elections for three years (!), giving them precious time to purge the old guard and reestablish order before putting the new political system to the test.[28]

One of the things that made this dictatorial free hand possible (in Japan at least) was the occupation force's control over information. The occupiers exercised mind-boggling censorship over the press and monopolized control of the broadcast media. This meant that they could limit the parameters of debate by controlling what people did or did not know.

Such dictatorial control is absolutely unimaginable today, not least because of technological advances. With multiple media sources available, from satellite TV to the internet, there are all sorts of ways for the occupied to circumvent the occupier's control of information. Al Hura must compete for the hearts and minds of Iraqis; it cannot monopolize them. But beyond technological advances, such dictatorial control is unimaginable today, in large part because of changing cultural expectations. No one could get away with the paternalism of a MacArthur today. It is astonishing to read the language the general used, referring

[26] Dower, *Embracing Defeat*, 364–390. For a detailed first-person account of the constitution-writing process that argues for a more nuanced view of the process, see Charles L. Kades, "The American Role in Revising Japan's Imperial Constitution," *Political Science Quarterly* 104 (Summer 1989): 215–247.

[27] Dower, *Embracing Defeat*, 365–373.

[28] Richard Merrit, *Democracy Imposed: US Occupation Policy and the German Public* (New Haven, CT: Yale University Press, 1995). In Germany, the United States had less of a free hand because of constraints imposed by the other occupying powers, namely, France, Britain, and the Soviet Union. With the outbreak of the Cold War, France and Britain largely threw their support behind the United States. Thanks to an anonymous reviewer for highlighting this last point.

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to the Japanese as children who needed to be taught and guided. Nor can elections be postponed at length when the people are demanding their right to self-determination. In the postcolonial world, there is less acceptance of unilaterally forcing people to be free.

More Comparable Cases?

Cases that are better matched to Iraq in terms of initial endowments crucial to democratic outcomes (that is, level of development, ethnic homogeneity, institutional strength, etc.) sadly suggest slimmer reason for optimism about this venture.

One such case might be Haiti. The United States occupied Haiti in 1994 with explicit rhetorical commitment to establishing democracy in that country despite the daunting state of affairs there. The Haitian case shares with Iraq many key initial conditions. It suffered from ineffective state institutions. The country was hobbled by the fact that it had an utterly incapable police force, judiciary, and state bureaucracy, spelling chaos and misery for its citizens. It had limited prior experience with democracy. Haiti had been ruled by brutal dictators from the Duvalier family from 1954 until 1986, and before and after that had known chaos and disorder more than constitutional rule. The country suffered from economic underdevelopment. Haiti is the poorest country in the western hemisphere and one of the poorest in the world. Finally, Haiti shared with the Iraqi case the fact of limited U.S. commitment to its stated goal of democratization. Although the intervention was called "Operation Restore Democracy," it was driven more by the U.S. concern to stem the flow of refugees from Haiti and restore order on the island than the desire to expand the realm of democracy. The Clinton administration was intent on getting out of Haiti quickly (especially after the fiasco of intervention in Somalia in 1993–1994), and most U.S. troops were withdrawn from the island within six months of the initial occupation.[29]

The consequences of this limited intervention, paired with inauspicious initial endowments, were predictable. Haiti did not turn into a stable democracy. The country is still characterized by chaos and instability today.

Another case that shares some important initial conditions with Iraq is that of Bosnia. Bosnia is an important case for comparison because Bosnia shares with Iraq the challenge of building a democracy in a country deeply riven by ethnic cleavage. In addition, like Iraq, Bosnia is a country with limited prior experience with democracy. The most important difference between the Bosnian and Iraqi cases is that the occupation of Bosnia has been carried out under UN auspices by multinational forces executing a treaty that was negotiated among the different Bosnian communities themselves. Presumably, this prove-

[29] Jean-Germain Gros, "Haiti's Flagging Transition," *Journal of Democracy* 8 (October 1997): 94–109.

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nance gives more international and domestic legitimacy to the occupation. A second important difference between the Bosnian and Iraqi cases is that in Bosnia, the occupiers have made a long-term commitment to see this occupation through to its intended conclusion—the establishment of a stable, peaceful, multiethnic government. To achieve that goal, the occupation has lasted for nearly ten years, with no end in sight.

Despite these more favorable conditions, the Bosnian case suggests the difficulty of delivering democracy in a democratically inexperienced, ethnically divided society. Ten years after the Dayton Accord, ethnic tensions remain very strong in Bosnia. The leaders of the Muslim, Croatian, and Serbian communities still refuse to cooperate with each other and, according to the report of the Economist Intelligence Unit, Bosnia has "still not made a decisive turn toward being a sustainable economic and political entity."[30]

The cases of Haiti and Bosnia, better matched to Iraq than Japan and Germany in initial conditions, suggest pessimism about military occupation's capacity to deliver on the goal of implanting democracy. But even these two cases are not perfectly matched to Iraq, and so conclusions drawn from them are also vulnerable to the criticism of relying on a selective reading of history. A comprehensive review of all cases of military occupation might prove most persuasive but, short of that, one can point to a preliminary study by Pei and Kasper that tracks seventeen cases of military occupation carried out by the United States in the twentieth century.[31] Out of these cases, only four (Japan, Germany, Grenada, and Panama) have given rise to stable democracies. Historically, the odds thus seem to be against success. Focusing on only the two most salient cases of success in itself constitutes an oddly selective reading of history.

Useful Lessons from Germany and Japan

But there is no need to discard the German and Japanese cases altogether. Although these cases cannot help us isolate the independent impact of military occupation on democratic outcomes, the Japanese and German cases are useful in that they put to rest pessimistic assumptions about several factors reputed to hamper democratization in conquered countries that were previously authoritarian.

First, the cases of Japan and Germany suggest that indigenous "authoritarian" culture, or perhaps our misinformed perceptions of it, need not be an insurmountable obstacle to implanting democracy. With democracy so firmly established in Germany and Japan today, we tend to forget that in the postwar period, the conventional wisdom was that both Japanese and German societies were culturally inhospitable to democracy. Germany was the focus of numer-

[30] Economist Intelligence Unit, *Country Profile: Bosnia* (2003).

[31] Minxin Pei and Sara Kasper, "Lessons from the Past: The American Record on Nation Building," Carnegie Endowment for International Peace (Policy Brief 24) (2003).

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ous studies aimed at pinning down the nature of "the authoritarian personality" purportedly endemic to German society.[32] Japanese society was considered too "conformist" and "herdlike" to provide fertile ground for democracy.[33] In fact, the cultural descriptions of these countries sound much like what is leveled at the Islamic world today. The point is, these presumed cultural sensibilities, whether accurately described or not, did not pose an insurmountable barrier to building democracy in Germany and Japan. In countries like Iraq, they should be seen as no more determining.

Second, the German and Japanese cases suggest that *imposition* of a political system need not necessarily spell its failure. What is striking, especially in the Japanese case, is the degree to which democratic institutions and reforms were imposed upon the occupied rather than teased out from indigenous sources. Imposition did not spell their failure. Why? The occupation forces were able to corral local interests behind these reforms and get key leaders to identify with the project and endorse it. This was the case with the Japanese constitution. The document was largely written by occupation bureaucrats without Japanese consultation. But the occupation forces were able to sell it to conservative elites in Japan because they presented it as a way to preserve the institution of the monarchy (which was so dear to the conservatives' conception of Japanese national identity). The occupation forces were able to persuade the Emperor himself to endorse the constitution in the same way. Overall, the larger geopolitical context, notably the Communist threat that peered over the borders of both Japan and Germany, persuaded conservative elements in both countries that their interests lay with the American-led democratic alliance. Engaging these interests further, the allies quickly fixed both Japan and Germany in a web of international organizations and institutions (NATO, GATT, etc.) that further paired their economic and security concerns with the democratic enterprise.[34] In this way, democracy did not stand simply on the fragile scaffolding of ideals but rather was multiply bolstered by interest.

There is a lesson here for Iraq. Political institutions don't have to be of indigenous origin to be acceptable. So long as the innovations are perceived as serving key interests and don't come at the expense of national identity, then institutions of foreign derivation might be expected to survive.

A third lesson from these historic cases: economic take-off and prosperity need not be immediate to ensure public endorsement of political change. Conventional wisdom teaches that the surest way to persuade people to embrace political reform is to "deliver the economic goods." That way, people associate the new institutions with prosperity and endorse them. But what is striking about

[32] Gabriel Almond and Sidney Verba, *The Civic Culture* (Boston, MA: Little, Brown, 1963). T.W. Adorno, E. Frenkel-Brunswick, and D.J. Levinson, *The Authoritarian Personality* (New York: Harper & Row, 1950).

[33] Dower, *Embracing Defeat*, 217–218. Similar arguments are still made today. See Karel van Wolferen, *The Enigma of Japanese Power* (New York: Knopf, 1989).

[34] Berger, "Occupation of Germany and Japan," 18.

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the German and Japanese cases is just how long it took for the economy to pick up in both countries under the occupation. Germany did not begin to see its economy take off until 1948, when a new currency was introduced. That was three years after the occupation began. Japan did not see its economy take off until around 1950, when the Korean War sparked a boom. That was a good five years into the occupation. Of course, prior to that, a great deal of aid had been provided to both Germany and Japan to stave off starvation and social unrest. But it took three to five years for the economy of these countries to really prosper.

The value of this historical perspective is that it encourages us to take the longer view on developments in Iraq. By comparison to Japan and Germany, Iraq today is ahead of schedule. The country has already recovered to prewar conditions in many areas of the economy.[35] There is sufficient momentum in the economy to give hope that things are moving forward. If history is to be repeated, then so long as this economic momentum is sustained, the political project should enjoy some breathing space.

Fourth and finally, the case of Japan, especially, suggests that the support of historically nondemocratic leaders can be key to successful democratic transition. No one would have expected Emperor Hirohito to be the champion of democracy in Japan, but, in fact, his endorsement of the process was key to its success. Similar figures may be of equal utility in Iraq. A leader like Sistani may not be ideologically committed to the principles of democracy, but with the skillful enlistment of his interests and self-understanding, he might prove to be an indispensable figure in the country's transition.

In short, military occupation can have added value for democratization. If done right, it can foster transition by rectifying state institutions, kick-starting economic development, and structuring economic and political incentives in ways that make elites lean toward democracy. This is clearly the lesson of Germany and Japan. Although both cases were endowed with qualities that favored successful democratization in the postwar period, in neither case was democracy a foregone conclusion. Extended intervention with democratic intent was essential to steering both countries onto a democratic track.

At the same time, military occupation cannot create democracy out of whole cloth. The successful creation of stable democracies in Germany and Japan was facilitated by their endowment with relatively developed economies, ethnic homogeneity, strong state institutions, and historical experience with democracy, as well as context-specific factors such as the experience of devastating defeat, the fear of Communist threat, and the dictatorial freedom of occupation bestowed by contemporary cultural norms. These conditions are difficult, if not impossible, for current occupations to re-create. Certainly they are unattainable in the course of brief occupations, the sort most common given conventional

[35] Neela Banerjee, "Iraq Oil Industry Reviving as Output Nears Prewar Levels," *The New York Times*, 1 March 2004; Adrianna Lins de Albuquerque, Michael O'Hanlon, and Jelly Associates, "Op-Art," *The New York Times*, 11 February 2004.

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limits of contemporary norms and interest. Thus, although we ought to recognize the successes of the German and Japanese occupations and draw lessons from them, we must also be careful to avoid a selective reading of history that ignores more prevalent patterns and disregards the specificity of time and context in shaping political outcomes.*

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What Was the Cold War About? Evidence from Its Ending

JOHN MUELLER

It is important to ascertain when the Cold War ended because such a determination can help to indicate what the Cold War was all about.

Its demise is commonly associated with the collapse of the Soviet empire in Eastern Europe in late 1989 or with the disintegration of the Soviet Union and of Communism in 1991. However, judging from the public rhetoric and actions of important observers and key international actors at the time, the Cold War essentially ended in the spring of 1989, well before these momentous events took place.

If this proposition is true, it suggests that the Cold War was principally (or even entirely) about an ideological conflict in which the West saw the Soviet Union as committed to a threateningly expansionary ideology. Once this menace seemed to vanish with the advent of the policies of Mikhail Gorbachev (similar processes had taken place earlier in Yugoslavia and China), Western leaders and observers began to indicate that the conflict was over. Thus, the Cold War was essentially about ideas. It was not centrally about power or about the military, nuclear, or economic balance—or the distribution of capabilities—between the East and the West. Nor was it about Communism as a form of government, the need to move the world toward democracy and/or capitalism, or, to a degree, Soviet domination of Eastern Europe. The Cold War was not about these concerns because it came to an end before any of them was really resolved.

Two issues should be clarified before beginning the discussion. I wish to argue that the Cold War essentially ended in early 1989, but I do not wish to suggest that the Cold War was necessarily permanently closed down or that it

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could not have been reinstituted after that date. It was certainly possible for Gorbachev later to change course if he had wanted to. Or, more likely, he could have been overthrown and his policy reversed by a group of opposing hardliners. Indeed, in 1991, there was a coup effort against him by such Communists and, had they been successful, it is possible that they would have reestablished Cold War hostilities. Actually, the coup conspirators, during their fifteen minutes of fame, seemed to indicate that while planning to undo some of Gorbachev's domestic reforms and to adopt a tougher line about the potential breakup of the Soviet Union, they did not intend to amend, alter, or reverse the basic changes Gorbachev had made to the Cold War situation. But, of course, it is possible that they eventually would have done so. Therefore, the "ending" of the Cold War could have proved to be something less than a terminal experience.

However, this concern holds for *any* supposed ending point for the Cold War. Indeed, we are not completely out of the woods yet. The Communist Party remains strong in Russia, and some of its core supporters are quite hardline. It is conceivable that if those characters managed to get into office in Russia, they might seek to reinstitute the Cold War, albeit with a somewhat smaller geographic base than the Soviet Union enjoyed at its imperial peak. This seems pretty unlikely, but given the tumultuousness of Russian politics, it is surely not impossible. Hence, any proposed ending date for the Cold War is potentially reversible.

In addition, the argument here deals with when the Cold War ended and with what it was about, but not with *why* the Soviet Union changed its ideology. Some analysts, like Robert English, stress intellectual factors and argue that the ideological change was in the works for well over a decade before 1989, while others, like Stephen Brooks and William Wohlforth, contend that material factors essentially impelled the change.[1] Although I have distinct views on this debate, I am concerned here with the consequences of the ideological shift, not with its causes.

Dating the Ending of the Cold War

Although later events were to prove more striking and dramatic, there is quite a bit of evidence to suggest that by the spring of 1989, many key people in the West had already substantially accepted the proposition that the Cold War was essentially over.

[1] Robert D. English, *Russia and the Idea of the West: Gorbachev, Intellectuals, and the End of the Cold War* (New York: Columbia University Press, 2001); Robert D. English, "Power, Ideas, and New Evidence on the Cold War's End," *International Security* 26 (Spring 2002): 70–92; Stephen G. Brooks and William C. Wohlforth, "Power, Globalization, and the End of the Cold War," *International Security* 25 (Winter 2000/01): 5–53; Stephen G. Brooks and William C. Wohlforth, "From Old Thinking to New Thinking in Qualitative Research," *International Security* 26 (Spring 2002): 93–111; see also Mark Kramer, "Ideology and the Cold War," *Review of International Studies* 25 (October 1999): 539–576.

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Thatcher, Reagan, and the Reagan Administration

Perhaps the earliest proclamation by an important policy maker that the Cold War was over was made by British Prime Minister Margaret Thatcher in an interview published on the front page of the *Washington Post* on 18 November 1988. "We're not in a Cold War now," she noted, but in a "new relationship much wider than the Cold War ever was." At the same time, she was entirely sensitive to the possibility that progress could be reversed, suggesting that the West be prepared to make a reassessment and return to confrontation should Gorbachev be toppled or become stymied.[2]

Three weeks later, on 8 December 1988, in his last press conference as president, Ronald Reagan was asked a remarkable question by *Washington Post* reporter Lou Cannon: did he think the Soviets might once again become allies with the United States as they had been during World War II. At the time, Reagan was not quite willing to admit the Soviet Union into NATO, perhaps, but he did take the rather startling question quite seriously, and he substantially, if a bit equivocally, suggested that the Cold War was just about over. Moreover, he explained his reasoning:

> If it can be definitely established that they no longer are following the expansionary policy that was instituted in the Communist revolution, that their goal must be a one-world Communist state . . . [then] they might want to join the family of nations and join them with the idea of bringing about or establishing peace.[3]

The reporter's question and Reagan's answer were likely influenced by an important speech Soviet leader Mikhail Gorbachev had given at the United Nations the day before. In this speech, he had announced that he planned to reduce Soviet arms unilaterally and, in addition, he made a striking declaration about ideology and its role:

> The new phase also requires de-ideologizing relations among states. We are not abandoning our convictions, our philosophy or traditions, nor do we urge anyone to abandon theirs.
>
> But neither do we have any intention to be hemmed in by our values. That would result in intellectual impoverishment, for it would mean rejecting a powerful source of development—the exchange of everything original that each nation has independently created.
>
> In the course of such exchange, let everyone show the advantage of their social system, way of life or values—and not just by words or propaganda, but by real deeds. That would be a fair rivalry of ideologies. But it should not be extended to relations among states.[4]

[2] Don Oberdorfer, "Thatcher Says Cold War Has Come to an End: Briton Calls for Support of Gorbachev," *Washington Post*, 18 November 1988.

[3] See *New York Times*, 9 December 1988. Reagan had actually strongly signaled this perspective earlier in 1988 on a trip to Moscow. Asked whether he still believed the Soviet Union to be an evil empire, he responded firmly in the negative and explained, "I was talking about another time, another era"; Don Oberdorfer, *The Turn: From the Cold War to a New Era, The United States and the Soviet Union 1983–1990* (New York: Simon and Schuster, 1991), 299.

[4] "In Gorbachev's Words," *New York Times*, 8 December 1988.

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In many respects, this declaration was the culmination of a development that had begun shortly after Gorbachev came to office in 1985, in which the Soviet Union came to abandon its once-central devotion to the international class struggle.[5] As part of the process, Gorbachev promised in 1987 to withdraw from Afghanistan, where the country was bogged down in a costly war. Reagan administration officials had at first felt that this was "too good to be true,"[6] but Gorbachev fulfilled the promise, and the pullout was completed by 15 February 1989. This, of course, was a clear indication that despite the pronouncements of the Brezhnev Doctrine of 1968, the Soviet Union was willing not only to cease expansion but also to withdraw, at least from areas where it had become overextended, even though a Communist government would likely be replaced by a non-Communist one in these areas. There were also passages in Gorbachev's UN speech that could be taken to suggest that the Soviet Union would not use force to maintain its control over the countries of Eastern Europe.[7]

Reagan was not the only member of his administration to be impressed by such words and deeds. His Secretary of State, George Shultz, entitles the final chapter of his memoirs, "Turning Point." In it, he concludes that "Margaret

[5] By 1986, Gorbachev had begun forcefully to undercut Communist ideology about the "class struggle" and about the Soviet Union's "internationalist duty" as the leader of world socialism. Oberdorfer, *The Turn*, 158–164, see also 141–142. By mid-1988, the Soviets were admitting the "inadequacy of the thesis that peaceful coexistence is a form of class struggle," and began to refer to the "world socialist system" or the "socialist community of nations" rather than to the "socialist camp." David Binder, "Soviet and Allies Shift on Doctrine: Guiding Terminology Changes—'Class Struggle' Is Out, 'Struggle for Peace' In," *New York Times*, 25 May 1988. And by October, the Kremlin's chief ideologist was explicitly rejecting the notion that a world struggle was going on between capitalism and Communism. Bill Keller, "New Soviet Ideologist Rejects Idea Of World Struggle Against West," *New York Times*, 6 October 1988. There is a very substantial literature on the origins and development of this important ideological change and on Gorbachev's internal struggles. In addition to the references above and to those in note 1, see, for example, Jack Snyder, "The Gorbachev Revolution: A Waning of Soviet Expansionism?" *International Security* 12 (Winter 1987/88): 93–131; John Mueller, *Retreat from Doomsday: The Obsolescence of Major War* (New York: Basic Books, 1989), ch. 9; William G. Hyland, *The Cold War Is Over* (New York: Times Books, 1990), ch. 14; Raymond L. Garthoff, *The Great Transition: American-Soviet Relations and the End of the Cold War* (Washington, DC: Brookings, 1994), 255–265, 358–368, 753–757, 769–778; Philip Zelikow and Condoleezza Rice, *Germany Unified and Europe Transformed* (Cambridge, MA: Harvard University Press, 1995), ch. 1; Jeffrey T. Checkel, *Ideas and International Political Change: Soviet/Russian Behavior and the End of the Cold War* (New Haven, CT: Yale University Press, 1997); John Lewis Gaddis, *We Now Know* (New York: Oxford University Press, 1997); John A. Vasquez, *The Power of Power Politics* (Cambridge, UK: Cambridge University Press, 1998), ch. 13; Jeremi Suri, "Explaining the End of the Cold War: A New Historical Consensus?" *Journal of Cold War Studies* 4 (Fall 2002): 60–92.

[6] Oberdorfer, *The Turn*, 243.

[7] George P. Shultz, *Turmoil and Triumph: My Years as Secretary of State* (New York: Scribner's, 1993), 1107; Zelikow and Rice, *Germany Unified*, 16; Jack F. Matlock, Jr., *Autopsy on an Empire: The American Ambassador's Account of the Collapse of the Soviet Union* (New York: Random House, 1995), 154, 192. Additionally, on a trip to Cuba in April 1989, Gorbachev publicly denounced the "export of revolution and counterrevolution" and had begun to cut off aid to the Sandinistas in Nicaragua and to other like-minded forces—though not yet to a degree that made the new Bush administration fully comfortable. Michael R. Beschloss and Strobe Talbott, *At the Highest Levels: The Inside Story of the End of the Cold War* (Boston, MA: Little, Brown, 1993), 58–59, 105; George Bush and Brent Scowcroft, *A World Transformed* (New York: Knopf, 1998), 135. He also worked to extricate the Soviet Union from Angola and to secure the withdrawal of Communist Vietnam from Cambodia.

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Thatcher had it right . . . it was all over but the shouting," and notes that the "Cold War was over" when he stepped down in January 1989 and that his main apprehension was that the new foreign policy team being assembled by the incoming president, George H.W. Bush, might not understand or accept this fact.[8] Referring to Gorbachev's UN appearance, Shultz has said, "If anybody declared the end of the Cold War, he did in that speech." And Soviet foreign policy spokesman Anatoly Chernyaev called it "a turning point—he publicly renounced Marxism-Leninism."[9]

The New York Times

Impressed by the developments, the *New York Times* published a series of op-ed pieces under the theme, "Is the Cold War Over?" during the first months of 1989. Then, on Sunday, 2 April 1989, it ran a long editorial summarizing the discussion, under the title, "The Cold War Is Over."

The editorial actually tended to extrapolate beyond what most of its comparatively tentative commentators had indicated, and it was perhaps intended to be rather provocative. But it was a pronounced declaration by a source with a reputation for sober judgement.

The Washington Post and the Views of Major Foreign Policy Figures

A month later, in early May, the *Washington Post* ran a two-part series on its front page, pointedly entitled, "Beyond the Cold War." In one of these articles, Don Oberdorfer surveyed various foreign policy figures outside of government and found that "nearly all of them said that the vast changes under way in the world are bringing an end to the post–World War II era."[10]

Thus, former Secretary of Defense Robert S. McNamara noted that "for 40 years U.S. foreign policy and defense programs have been shaped largely by one major force: fear of and opposition to the spread of Soviet-backed communism," but now, he argued, new organizing principles for governing international life must be found: "We face an opportunity—the greatest in 40 years—to bring an end to the Cold War." Former Secretary of State Cyrus Vance concluded that "we are entering a new era" in which "we will find ourselves very often on the same side with the Soviet Union," and William Hyland, editor of *Foreign Affairs*, indicated that "what began in 1943–45 is ending, and something else is taking its place." Former Secretary of State Henry A. Kissinger found that "international factors have rarely been so fluid. The one thing that cannot occur is a continuation of the status quo."

[8] Shultz, *Turmoil and Triumph*, 1131, 1138; see also Matlock, *Autopsy*, 197.

[9] Cold War Retrospective, panel discussion, School of International Affairs, Princeton University, 26 February 1993, as recorded by C-SPAN.

[10] Don Oberdorfer, "Eased East–West Tension Offers Chances, Dangers," *Washington Post*, 7 May 1989; see also Oberdorfer, *The Turn*, 346.

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According to former National Security Council Director Zbigniew Brzezinski, "We are quite literally in the early phases of what might be called the post-communist era. This is a massive, monumental transformation." Conflicts in the Third World, he observed, "will be deprived of the extra ideological fuel which often contributed to igniting even greater passions and tensions than the conflicts were capable of generating in themselves." Brzezinski recalled that Winston Churchill's famous "Iron Curtain" speech of 1946 had "closed the gap between public consciousness and a reality that already existed" and, in the process, had essentially announced the Cold War. A similar gap-closing declaration, Brzezinski argued, was now needed to inaugurate the new era.

Public Opinion

Actually, the public may not have needed the reminder. It already seems to have been aware that a new era was dawning (or had dawned).

Figure 1 displays the results from a pair of questions that crudely, but clearly, pose the central Cold War question: Was the Soviet Union, after all, actually out to take over the world, or was it mainly just interested in its own security? In the early years of the Cold War, and reaching a high at the time of the Communist Chinese entry into the Korean War at the end of 1950, the public strongly opted for the former interpretation of Soviet behavior. Once Gorbachev had established himself, however, the public reversed itself. Although the amazing changes of 1989 certainly enhanced the benign interpretation of Soviet behavior, it is impressive how positive it already was at the end of 1988.

Figure 2 supplies data concerning the degree to which the public found the Soviet Union to be a threat. By the time of Gorbachev's United Nations speech in December 1988, over half of the public was already willing to find that country to be only a minor threat (44 percent) or no threat at all (10 percent), and by mid-June of 1989, still well before the dramatic fall of the Berlin Wall, these numbers had increased to 45 percent and 14 percent, respectively. For comparison, the figure also includes data from a somewhat similar question concerning the alarming new "threat" to national security perceived at the time to be presented by economically impressive, if demilitarized, Japan. By the spring of 1989, the Japanese threat was seen to be nearly comparable to the one posed by the Soviet Union.

The Wall Street Journal

The *Wall Street Journal* also picked up the message and joined the journalistic chorus. In a 24 May 1989 editorial ebulliently entitled, "Bulletin: We won!" the publication noted that Gorbachev was "repudiating 70 years of his country's history," and declared that "containment plus the Reagan doctrine worked. If the Cold War is over, the West has won."[11]

[11] See also the editorial, "The Empire Pulls Back," *Wall Street Journal*, 10 February 1989.

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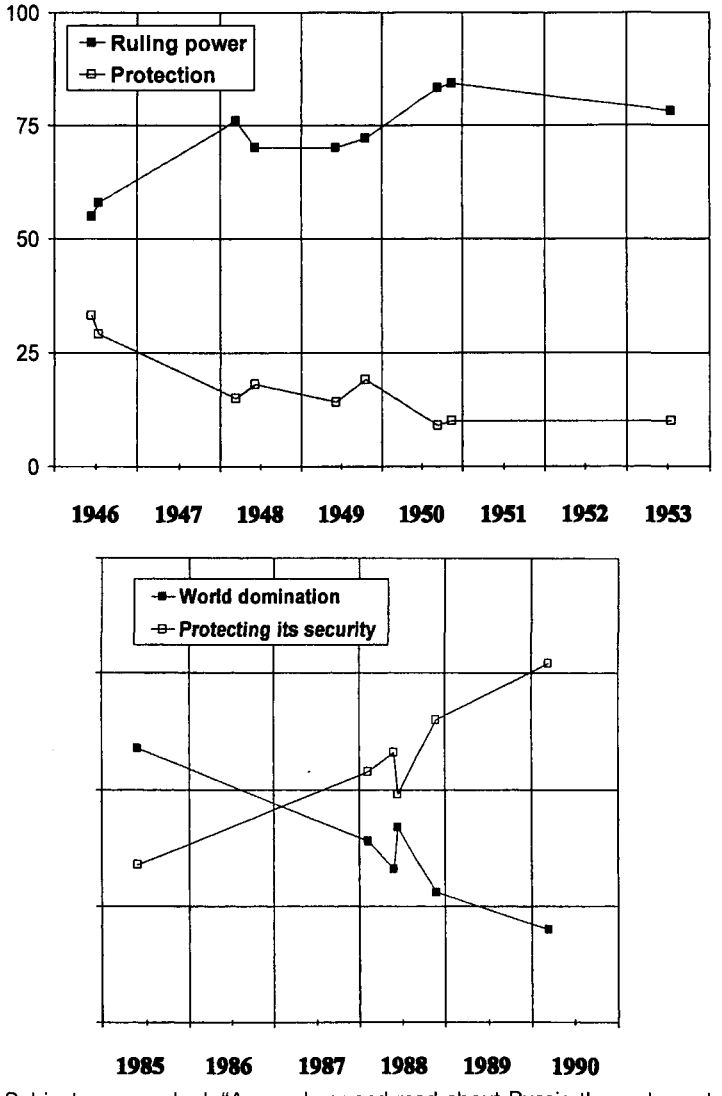
FIGURE 1
Public Opinion on Soviet Motives



Upper graph: Subjects were asked: "As you hear and read about Russia these days, do you believe Russia is trying to build herself up to be *the* ruling power of the world, or do you think Russia is just building up protection against being attacked in another war?"

Lower graph: Subjects were asked: "Do you believe the Soviet Union is mainly interested in world domination or mainly interested in protecting its own national security?"

The Bush Doctrine

Partly impelled, perhaps, by the series in the *Times* and the *Post*, the new Bush administration engaged in an extensive review of Cold War policy in the spring of 1989. The administration appears to have been groping for the gap-closing phraseology that Brzezinski, the press, and the public were calling for, and Condoleezza Rice, a member of the National Security Council staff, came up with

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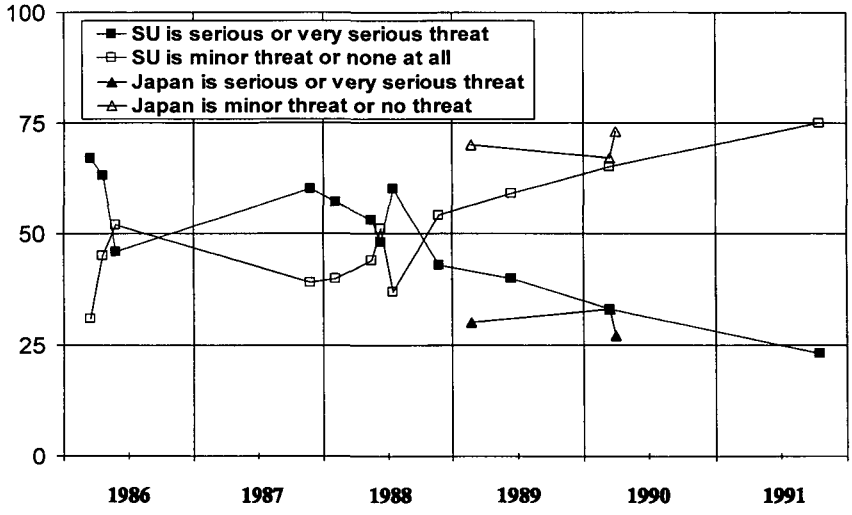
FIGURE 2
Public Opinion on the Soviet and Japanese Threats



Subjects were asked, "How much of a threat would you say the Soviet Union is to the United States these days: a very serious threat, a serious threat, a minor threat, or not a threat at all?" "Do you feel the national security of the United States is threatened because Japan has become so strong economically? If yes, is the threat to U.S. national security a very serious threat, a serious threat, or only a minor threat?"

the phrase "beyond containment," something, as Oberdorfer notes, that was "almost the reverse of containment" in its "encouragement of Soviet integration into the Western economic and political community."[12] Working with Robert Blackwill, she produced a secret seven-page National Security Directive, NSD-23, which included the key phrasing: "containment was never an end in itself. It was a strategy born of the condition of the postwar world. [But] a new era may now be upon us. We may be able to move beyond containment to a new U.S. policy that actively promotes the integration of the Soviet Union into the international system."[13]

National Security adviser Brent Scowcroft was taken with the phrase and with the policy change. There was even talk of labeling it the "Bush Doctrine," but Scowcroft rejected this idea on the grounds that the press, not presidents themselves, are supposed to confer such labels.[14] There was also consideration of declaring the Cold War over, but the cautious Scowcroft vetoed that phraseology, not because he necessarily thought it invalid, but because of concerns about reversibility: "That's the kind of line that once you've said it, it can never be unsaid."[15] The "beyond containment" idea was presented to Bush and he quickly embraced it.

[12] Oberdorfer, *The Turn*, 347.

[13] Beschloss and Talbott, *At the Highest Levels*, 69.

[14] Ibid., 70.

[15] Quoted by Philip Zelikow at the Annual Conference of the Society for Historians of American Foreign Relations, Princeton University, 25 June 1999; see also Zelikow and Rice, *Germany Unified*,

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The phrase was first used in a major address at Texas A&M University on 12 May 1989. Bush began this important speech by placing the policy of containment quite clearly in the past tense:

> Wise men—Truman and Eisenhower, Vandenberg and Rayburn, Marshall, Acheson, and Kennan—crafted the strategy of containment. They believed that the Soviet Union, denied the easy course of expansion, would turn inward and address the contradictions of its inefficient, repressive, and inhumane system. And they were right—the Soviet Union is now publicly facing this hard reality. Containment worked.

Now, Bush continued, it was time to move on to a bold new policy:

> We are approaching the conclusion of an historic postwar struggle between two visions: one of tyranny and conflict and one of democracy and freedom. The review of U.S.–Soviet relations that my administration has just completed outlines a new path toward resolving this struggle. Our goal is bold, more ambitious than any of my predecessors could have thought possible. Our review indicates that 40 years of perseverance have brought us to a precious opportunity, and now it is time to move beyond containment to a new policy for the 1990s—one that recognizes the full scope of change taking place around the world and in the Soviet Union itself.

And, Bush extrapolated, that meant essentially reversing containment:

> In sum, the United States now has as its goal much more than simply containing Soviet expansionism. We seek the integration of the Soviet Union into the community of nations. . . . Ultimately, our objective is to welcome the Soviet Union back into the world order.

At the end of the speech, he noted that a Texas A&M graduate had been the first American soldier to shake hands with the Soviets when the forces met at the Elbe River at the conclusion of World War II. Making use of this rhetorical convenience, Bush made a clear comparison between the end of World War II and the end of the Cold War: "Once again, we are ready for a hand in return. And once again, it is a time for peace."[16]

This was not simply a momentary reflection, but a major policy declaration, and Bush hammered it home in speeches over the weeks that followed. The next day he went out of his way in two separate speeches to point out that "yesterday I announced a new policy for the 1990s" that "seeks to bring the Soviet Union into the family of nations, a policy, if you will, of reintegration." On 24 May, he repeated the notion at a major speech at the Coast Guard Academy, again employing the past tense when dealing with containment: "We now have a precious opportunity to move beyond containment. . . . Our goal, integrating the Soviet Union into the community of nations, is every bit as ambitious as

20. On Scowcroft's continuing "reservations" about Gorbachev even after the spring of 1989, see Bush and Scowcroft, *World Transformed*, 135.

[16] *Public Papers of the Presidents of the United States: George Bush, 1989* (Washington, DC: United States Government Printing Office, 1990), 541, 543.

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containment was at its time."[17] These sentiments were stressed in additional statements over the next several days.[18]

Although these pronouncements did not declare the Cold War to be over in so many words—as someone like Shultz might have preferred—they strongly carried this implication in their call not simply to go beyond containment, but effectively to reverse it. Bush and Scowcroft reflect that although they were trying to be appropriately "cautious and prudent" in these speeches, they were consciously "shifting policy" and presenting a "new strategy toward the cockpit of East–West confrontation."[19]

Bush's important policy shift garnered little notice at the time, perhaps because it was too atmospheric (or too "cautious and prudent"), because Bush was not very good at handling what he called "the vision thing," because the Texas A&M speech was belabored with a distracting, dead-on-arrival policy proposal that was mostly a warmed-over rephrasing of the "Open Skies" idea from the Eisenhower administration,[20] because of Scowcroft's unwillingness to engage in explicit hype, and because "beyond containment" as a phrase simply doesn't have the same vivid ring or resonance as "iron curtain." At any rate, some in the administration were disappointed in their hopes that the press would grasp the importance of the message Bush was trying to deliver and dub it the "Bush Doctrine."[21]

Earlier Rhetoric

At various points, there were "thaws" in the Cold War, accompanied by suggestions that things were notably improving. There was, for example, the "Spirit of Geneva" in 1955, following the death of Stalin and the rise of new, more moderate Soviet leadership. Or there was the development of what came to be called "detente" after 1963, as the United States and the USSR mostly put crisis aside as a diplomatic technique and focused on engineering arms control agreements designed to reduce the likelihood of nuclear war between them. Some also saw notable improvement when the Helsinki Agreement was signed in 1975.

However, none of these mellowings inspired the kind of direct and repeated "beyond containment" or "the Cold War is over" rhetoric of early 1989. Nor did they lead to a significant and often unilateral dampening of the arms race

[17] Ibid., 546, 553, 602.

[18] Ibid., 606, 617, 667–668.

[19] Bush and Scowcroft, *World Transformed*, 55.

[20] Although Bush rather liked the Open Skies idea, Scowcroft says he found that it "smacked of gimmickry, and would wrongly give the impression that we did not have the brain power to think of something innovative and had to reach back thirty years for an idea." Bush and Scowcroft, *World Transformed*, 54.

[21] In an effort to jigger things along, Blackwill promised an excellent dinner to anyone in the administration who used the phrase "beyond containment" on television after the Texas A&M speech: Beschloss and Talbott, *At the Highest Levels*, 70.

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of the sort that followed the changes of 1988–1989 (to be discussed more fully below).

One indication of the differences was the conversion of the conservative American commentator, Francis Fukuyama. In the fall of 1987, he published an article suspiciously suggesting that Gorbachev's mellowing could simply be a temporary tactical maneuver akin to some that the Communists had employed in the past.[22] By May 1989, however, when his famous article, "The End of History?" went to press for the summer issue of *National Interest*, he was triumphally proclaiming the irreversible ascendance of liberalism.

Ideology versus Deeds

Fukuyama's 1987 analysis also can be used to sort out the role of ideological declaration from other factors—particularly from the effects of deeds or acts of policy such as the Soviet withdrawal from Afghanistan. Fukuyama points to the rightward, accomodationist shifts in Soviet policy during the New Economic Policy period of 1921–1928, during the popular front period of 1935–1939, during the wartime alliance period of 1941–1947, and variously during the Khrushchev and immediate post-Khrushchev period of 1954–1972, and he notes that once these tactical actions had served their purposes, policy once again shifted sharply to the left.

Following this approach, it seems clear that many of the policy acts of the Gorbachev era had resonances with earlier periods. In particular, Nikita Khrushchev, like Gorbachev, sought to dampen Cold War tensions that could lead to direct conflict between the Soviet Union and the West, and, due in large part to economic strains, he unilaterally cut back on military expenditures, reduced repressive internal policies, accepted notable arms control arrangements, and established more businesslike economic relations with Western capitalist countries.

However, while it could be held that these changes ended the most directly confrontational period of the Cold War (there were few, if any, direct crises between East and West after the Cuban missile crisis of 1962), Western policy makers and commentators had not prominently and repeatedly declared the Cold War to be over or suggested that the time had now come to move "beyond containment." The difference, it seems to me, was that Khrushchev still retained his ideological commitment. He termed his policy one of "peaceful coexistence," but he precisely defined at the time what he meant by that: "intense economic, political, and ideological struggle between the proletariat and the aggressive forces of imperialism in the world arena." In fact, he ebulliently assured the world that "the victory of socialism on a world scale, inevitable by

[22] Francis Fukuyama, "Patterns of Soviet Third World Policy," *Problems of Communism* 36 (September–October 1987): 1–13.

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virtue of the laws of history, is no longer far off."[23] And he continued to keep the faith even after he had been drummed humiliatingly and unceremoniously out of office. In the memoirs secretly dictated during his induced retirement, he declared, "Both history and the future are on the side of the proletariat's ultimate victory. . . . We Communists must hasten this process. . . . There's a battle going on in the world to decide who will prevail over whom. . . . To speak of ideological compromise would be to betray our Party's first principles."[24] And "peaceful coexistence among different systems of government is possible, but peaceful coexistence among different ideologies is not."[25]

Like Khrushchev, Gorbachev instituted policy actions that led to accommodation, arms reduction, and a relaxation of tensions. Unlike Khrushchev, however, he was also willing to betray his party's first principles. And that made all the difference. For example, the Soviet withdrawal from Afghanistan by early 1989 is properly taken as a "costly signal" of Gorbachev's sincerity.[26] But if that is so, it is because the signal was costly ideologically—a tangible admission that Gorbachev had abandoned Communist expansionary ideas.[27] That is, had such deeds not been accompanied by indications of an ideological shift, they, like those of Khrushchev, would have been seen to be signaling simply that the Soviet Union was capable of pragmatic retreat from an overextended position—rather like the Israeli withdrawal from southern Lebanon in 2000 or that of America from Vietnam in the 1970s.

What the Cold War Was Not About

Not everyone considered the Cold War to be over by the spring of 1989.[28] But by then, a considerable array of important decision makers, foreign policy experts, opinion leaders, and leading newspapers in the West had strongly suggested, and sometimes explicitly declared, its demise. If the Cold War essen-

[23] G.F. Hudson, Richard Lowenthal, and Roderick MacFarquhar, eds., *The Sino-Soviet Dispute* (New York: Praeger, 1961), 214. Similarly, his successor, Leonid Breznhev, declared in 1976, "Detente does not in the slightest way abolish, and cannot abolish or change the laws of the class struggle. We do not conceal the fact that we see detente as a way to create more favorable conditions for peaceful socialist and communist construction." Geir Lundestad, *East, West, North, South*, 4th ed. (New York: Oxford University Press, 1999), 111.

[24] Strobe Talbott, ed., *Khrushchev Remembers: The Last Testament* (Boston, MA: Little, Brown, 1974), 530–531.

[25] Edward Crankshaw and Strobe Talbott, eds., *Khrushchev Remembers* (Boston, MA: Little, Brown, 1970), 512.

[26] Andrew Kydd, "Trust, Reassurance, and Cooperation," *International Organization* 54 (Spring 2000): 346.

[27] In his 1987 essay, Fukuyama pointedly suggested that Soviet behavior in Afghanistan would "provide a good test of how far-reaching the changes in Soviet Third World policy are." Fukuyama, "Patterns of Soviet Third World Policy," 11.

[28] For an assessment of conservative analysts who wanted more evidence and who waited for the Eastern European revolutions of late 1989 to relax, see Kydd, "Trust, Reassurance, and Cooperation," 349–350.

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tially did come to an end in the spring of 1989, this would suggest that it could not have been about a number of issues and themes.

Nuclear Weapons and the Military Balance

If the Cold War was centrally about nuclear weapons, and the "bipolarity" they have been said to produce, it would still be going on: the United States and Russia continue to retain enormous nuclear arsenals. In fact, about the only thing that didn't change at the Cold War's end was the size of the nuclear arsenals that the East and West had pointed, or potentially pointed, at one another.

Nor was the Cold War about the military balance or the "distribution of capabilities" more generally.[29] Later events, particularly those surrounding Russia's muddled effort to deal militarily with the secessionist movement in Chechnya in the mid-1990s, have led to the realization that the Soviet "military machine" may well have been much less enormous and, especially, much less capable than anyone really imagined in 1989. At the end of the Cold War, however, Soviet military might and potential still inspired awe. In its 2 April 1989 declaration of the Cold War's end, the *New York Times* readily acknowledged that "two enormous military machines still face each other around the world." This view was widely shared. As one of its series essayists, hard-liner Frank Carlucci, stressed, "At present, and in spite of actual and announced reform initiatives, the Soviet Union is in sheer military terms more formidable than ever before. This is a fact that has not changed under the leadership of Mikhail S. Gorbachev, and one that will persist even, for instance, after Gorbachev's promised reductions in the Soviet military."[30] And even as he announced his "beyond containment" policy, George Bush pointed out that "we must not forget that the Soviet Union has acquired awesome military capabilities. . . . That is a fact of life for me today as President of the United States."[31] Yet the *Times* and, it appears, Bush concluded that the Cold War was essentially over, even though the military balance seemed to be as monumental and as potentially dangerous as ever.

The Soviet Union had impressively agreed to the Intermediate-range Nuclear Force (INF) treaty in 1987, and in his 8 December 1988 UN speech, Gorbachev announced his unilateral arms cuts. But these measures, as Carlucci noted, still left the country with a massive military force. Although they could

[29] See Kenneth Waltz, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979), 98, 170.

[30] Frank C. Carlucci, "Is the Cold War Over: No Time to Change U.S. Defense Policy," *New York Times*, 27 January 1989.

[31] *Public Papers of the Presidents: Bush*, 541; see also Vasquez, *Power of Power Politics*, 330; Owen Harries, "Is the Cold War Really Over?" *National Review*, 10 November 1989, 45.

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be treated as "costly signals" of his sincerity, they could also, by themselves, be dismissed as temporary and readily reversible measures to reduce military costs, with the long-run intention, as the *Economist* magazine put it in 1988, of making the country a "more formidable adversary for the West, not a partner with it."[32]

To be sure, the Soviet Union's military capabilities were at all times factored into the risk calculation during the Cold War; the threat was particularly alarming because it was linked to an impressive military arsenal. But it was the threat that was principally motivating, not the size of the arsenal. North Korea and Iraq have been seen as threatening and dangerous because they have sometimes acted or talked threateningly, even though their military capabilities pale in comparison with those of, say, unthreatening France or Britain. And of late, the United States has become deeply alarmed about the dangers presented by tiny bands of fanatical and suicidal terrorists, whose ability to kill Americans, even in the most apocalyptic scenarios, is dwarfed by the damage that could have been inflicted upon the United States by the Soviet Union in the 1980s—or for that matter, by Russia today.[33]

This suggests that the arms balance was more nearly an indicator of international Cold War tensions than the cause of them. Hans J. Morgenthau once proclaimed that "men do not fight because they have arms"; rather "they have arms because they deem it necessary to fight."[34] It follows, then, that when countries no longer deem it necessary to fight, they will get rid of their arms. And that is exactly what happened as the Cold War came to an end: once the ideological struggle had begun to wane, something resembling a negative arms race evolved because the weapons built to wage it began to seem burdensome and even parodic. Indeed, within days of Gorbachev's 7 December 1988 speech, press reports observed that there was a "new reluctance to spend for defense." In a month, reports were noting that Gorbachev's pronouncements "make it harder for Western governments to justify large sums for military machines. . . .

[32] See Kydd, "Trust, Reassurance, and Cooperation," 345–348, 350. With its later withdrawal from Eastern Europe, the Soviet ability to invade Western Europe was, of course, vastly reduced, but it still retained a huge army and nuclear capacity. The failure of the Soviet economic and administrative system clearly encouraged Gorbachev and others to reexamine their basic ideology. However, as Myron Rush notes, these problems by no means required a doctrinal change: had the Soviet Union done nothing about them, "its survival to the end of the century would have been likely," and "by cutting defense spending sharply . . . a prudent conservative leader in 1985 could have improved the Soviet economy markedly." Myron Rush, "Fortune and Fate," *National Interest* (Spring 1993): 21.

[33] In a parallel to the Cold War discussion, if terrorists led by Osama bin Laden were to credibly give up their anti-American ideological zeal, concerns about them would diminish markedly, even though their physical capacity to commit damaging acts of terror would be unchanged.

[34] Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* (New York: Knopf, 1948), 327; see also James Lee Ray and Bruce Russett, "The Future as Arbiter of Theoretical Controversies: Predictions, Explanations and the End of the Cold War," *British Journal of Political Science* 26 (October 1996): 457.

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The Soviet bear seems less threatening to Western publics these days, so that they want to do less on the weapons front. . . . Western perceptions [are] that the Soviet threat is receding and that big armies are expensive and inconvenient—perhaps even irrelevant." A few months later, as more proposals and counterproposals were spun out by both sides, the *Wall Street Journal* was calling the process a "race to demobilize."[35]

The arms buildup, of course, had not been accomplished through written agreement; instead, there had been a sort of free market, in which each side, keeping a wary eye on the other, sought security by purchasing varying amounts of weapons and troops. With the demise of the Cold War, a similar reactive arms policy continued between West and East, except that now it was focused on arms reduction. Jerimi Suri argues that "a race to disarm dominated the end of the Cold War."[36] It seems, rather, that this "race" naturally followed it.

Communism in the Soviet Union

Neither in his 7 December 1988 speech nor in his later pronouncements did Gorbachev indicate that he intended to abandon Communism or Communist Party control in the Soviet Union. Indeed, even after the failed coup attempt against him in 1991 by members of that party, he continued to contend that while some bad elements needed to be removed from the party and while his policy of *glasnost* should be further advanced, he still deeply believed in Communism as a system and felt that it needed to be reformed, not abandoned: he pledged to "work for the renewal of the party."[37]

Consequently, if the Cold War essentially ended in the spring of 1989 (or even in late 1991), it could not have been about the fact that the Soviet Union had happened to adopt Communism as its domestic economic and governmental form. As the quintessential Cold Warrior, John Foster Dulles, once put it, "The basic change we need to look forward to isn't necessarily a change from Communism to another form of government. The question is whether you can have Communism in one country or whether it has to be for the world. If the Soviets had national Communism we could do business with their government."[38] In 1962, President John Kennedy made the same point:

[35] Amity Shlaes, "Talk Turns to Triple Zero in West Germany," *Wall Street Journal*, 9 December 1988; Robert Keatley, "Gorbachev Peace Offensive Jars the West," *Wall Street Journal*, 20 January 1989; editorial, *Wall Street Journal*, 31 May 1989; see also R. Jeffrey Smith, "Arms Cuts Gain Favor as Anxieties Ebb," *Washington Post*, 8 May 1989. On the phenomenon of the negative arms race, see John Mueller, *Quiet Cataclysm: Reflections on the Recent Transformation of World Politics* (New York: HarperCollins, 1995), ch. 3.

[36] Suri, "Explaining the End of the Cold War," 84.

[37] Beschloss and Talbott, *At the Highest Levels*, 437.

[38] John Lewis Gaddis, *Strategies of Containment* (New York: Oxford, 1982), 143.

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> The real problem is the Soviet desire to expand their power and influence. If Mr. Khrushchev would concern himself with the real interests of the people of the Soviet Union—that they have a higher standard of living, to protect his own security—there is no real reason why the United States and the Soviet Union . . . should not be able to live in peace. But it is this constant determination . . . that they will not settle for a peaceful world, but must settle for a Communist world . . . [that] makes the sixties so dangerous.[39]

In his proclamations, including the 7 December 1988 speech, Gorbachev essentially indicated that he only wanted Communism in his country and was not interested in forcibly exporting it: "In the course of such exchange, let everyone show the advantage of their social system, way of life or values—and not just by words or propaganda, but by real deeds. That would be a fair rivalry of ideologies. But it should not be extended to relations among states."[40]

When it became clear that Gorbachev meant it, Bush and other Western leaders moved to accommodate. They certainly hoped for further economic and political liberalization in the Soviet Union. But that liberalization, however desirable, does not seem to have been an essential condition for calling an end to the Cold War.

The Need for the World to Be Democratic and/or Capitalist

If the Cold War was not about the fact that certain major countries had domestic processes built around Communism, neither was it about the fact that those countries, and others, were neither democratic nor capitalist. The United States has been a champion of both institutions, of course, and has long tried to promote them and continues to do so. But it has generally been willing to adopt a live-and-let-live policy toward various kinds of dictatorships, whether dominated by Fascist parties (as with Franco's Spain), by Communist ones (as with today's China), or by militaristic groups (as in dozens of places in Latin America), as long as those dictatorships do not threaten their neighbors or, particularly, the United States and its core interests.

The Existence of the Soviet Union

Dating the demise of the Cold War to coincide with the collapse of the Soviet Union at the end of 1991 makes little sense. Not only does that seem far too late, following the reasoning above, but the United States actually made considerable efforts to keep the country from collapsing, fearing the kind of violent chaos that was to erupt in Yugoslavia in the 1990s. Most notably, earlier in the year, Bush had gone to Kiev in the Ukraine to give a speech in which he essen-

[39] *Public Papers of the Presidents of the United States: John F. Kennedy, 1962* (Washington, DC: United States Government Printing Office, 1963), 551.

[40] "In Gorbachev's Words," *New York Times*, 8 December 1988.

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tially urged the various Soviet Republics to work it out and to remain within the country.[41] If there was a Cold War raging at that time, the United States and the Soviet Union were on the same side.

Soviet Control over Eastern Europe

The pronouncements noted above about the end of the Cold War all came while the Soviet Union still controlled Eastern Europe. Although there were signs of liberalization in Hungary and although Poland was going to hold semi-open elections in June 1989, Soviet control of the area seemed quite firm. Indeed, several of the countries—particularly East Germany, Bulgaria, Romania, and Albania—were under the domination of Communist hard-liners, who greeted Gorbachev's reforms with utter dismay and even open contempt.

In its 2 April 1989 declaration of the end of the Cold War, the *New York Times* readily acknowledged this issue, noting that "Europe remains torn in two" and that "No one seems to have a good answer about the division of Europe, always the most dangerous East–West question." It called for "superpower talks to bring about sovereign nations in Eastern Europe and special arrangements for the two Germanys."[42] Indeed, Philip Zelikow and Condoleezza Rice argue that whatever the implications of the "beyond containment" speeches (which they helped write), Bush essentially felt that the Cold War could not be over until Europe was "whole and free," a phrase he used a few times both before and after the set of "beyond containment" speeches.[43]

Consideration of this issue is confused somewhat by the incredible speed with which Soviet control over Eastern Europe was terminated. De-Sovietization there substantially took place over a few months at the end of 1989, and the peaceful unification of Germany was accomplished over the following year. But no one had really envisioned the astonishing speed with which these massive changes would come about. The editors of the *Times* almost certainly felt that working out viable arrangements in Europe would take many years of careful diplomacy with a Soviet Union that was now clearly willing to negotiate in good faith on the issue. Once the remarkable revolutions in Eastern Europe began, of course, the possibility of rapid change began to be more accepted. However, even on 12 November 1989—even after the Berlin Wall had crumbled—George Kennan published an article in the *Washington Post* noting, ac-

[41] Beschloss and Talbott, *At the Highest Levels*, 417–418; Bush and Scowcroft, *World Transformed*, 515–516; Matlock, *Autopsy*, 565–566.

[42] On this issue, see also Michael Mandelbaum, "Ending Where It Began," *New York Times*, 27 February 1989. By mid-1988, some analysts were noting that the Soviet position in burdensome Eastern Europe had become negotiable and might lead to some sort of Finlandization of the Soviet colonies there. Irving Kristol, "The Soviets' Albatross States," *Wall Street Journal*, 22 July 1988. See also Garthoff, *Great Transition*, 377–378.

[43] *Public Papers of the Presidents: Bush*, 431. Zelikow and Rice, *Germany Unified*, 24, 31. Zelikow and Rice date the end of the Cold War with the unification of Germany. Ibid., 3.

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curately, that "the changes now sweeping over Central and Eastern Europe are momentous, irreversible, and truly epoch making," but then going on to argue that the process of designing a new Europe was very complex and profound and would "take years, not months. We will be lucky if the task is substantially accomplished before the end of the century."[44] As Zelikow and Rice recall, "For weeks after the Berlin Wall fell on the night of November 9–10, 1989, even those who dared think about [the] unification [of Germany] laid out timetables in years, not months."[45]

Essentially, these comments suggest that the expectations at the time were that the Soviet Union would retain overall control over Eastern Europe for some considerable period, but would work, over the years, in a businesslike manner to negotiate relative autonomy for individual states and to develop an accommodation on the division of Germany, allowing much-increased contacts and perhaps even a kind of confederation. At the same time, it would presumably continue to dampen East–West military tensions through arms control agreements, in the manner of the important 1987 INF treaty, and it would assist in the rise of Gorbachev-style reformers in places like East Germany, Czechoslovakia, Bulgaria, and, insofar as it could, Romania and Albania.

In this process, it was to be expected that the Soviets—or indeed any regime in that geographical location—would proceed with great caution to make sure its security was not compromised. The country had, of course, been invaded twice in the century through Eastern Europe, and Western policy makers were fully sensitive to this understandable security concern. Any armed Soviet suppression of independence movements in Eastern Europe (of the sort Gorba-

[44] George F. Kennan, "This Is No Time for Talk Of German Reunification," *Washington Post*, 12 November 1989. Similarly, Henry Kissinger anticipated at the time that it would take three or four years even for a de facto unification of Germany to take place. Michael R. Gordon, "Kissinger Expects a United Germany: Declares Changes in the East Set in Motion Forces That Cannot Be Reversed," *New York Times*, 16 November 1989. In a spring 1989 memo, Scowcroft noted that "virtually no West German expects German unification to happen in this century." Zelikow and Rice, *Germany Unified*, 28. A personal note may be of interest in this regard. In 1986, I presented a paper at the International Studies Association meetings arguing that because the Cold War was about ideology (a theme continued in the present article) and because Gorbachev was already in the process of dismembering this crucial element, the Cold War might well be in terminal demise—that we might be coming to the end of the world as we knew it (the paper can be found at http://psweb.sbs.ohio-state.edu/faculty/jmueller/isa1986.pdf). In 1985 and 1986, I tried to get the unfashionable argument published, in various versions, in *Foreign Policy*, *National Interest*, *Washington Post*, *New York Times*, *Wall Street Journal*, *Los Angeles Times*, and *New Republic* to no avail. I then gave up and blended the argument into a book that came out in February 1989 (*Retreat from Doomsday*, see especially 211–214). While I think I got the basic mechanism for the demise of the Cold War right, I was as flabbergasted as anybody by the speed with which events in Eastern Europe took place. At the 1986 meeting, someone asked me when I thought the Soviet Union might decide to leave Eastern Europe. The paper suggests that this might happen "eventually" and "in the long term," and I tried to take refuge behind such crafty vapidities. But he kept badgering me, and I finally blurted out, "Maybe by 1995," with what I felt was amazing heroism. If I had heard myself saying "1989" I would have had myself committed.

[45] Zelikow and Rice, *Germany Unified*, 2.

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chev had earlier instituted in Lithuania) would likely have been condemned by the West. But even these would probably not have fatally derailed the process or led to major claims that the Cold War was still on—any more than the later Russian wars in Chechnya have. Most likely, of course, was that the Eastern Europeans, as sensitive as anybody to historical realities, would be content to participate in a gradual process of liberation. Indeed, this approach was urged upon them by Thatcher. In her 1988 interview, she anticipated progress toward solving the Eastern European problem, but warned those still behind the Iron Curtain about being too impatient: "They can get their increasing liberty if they handle it well."[46] If the Cold War could only end when Europe became "whole and free," its demise—from the perspective of early 1989—was years, possibly even decades off. The 1989 rhetoric and declarations of Bush and others detailed above suggest, by contrast, that the Cold War could end long before that event took place.

The issue, then, is whether settlement in Eastern Europe was crucial to ending the Cold War or whether it was more nearly the first really important item on the post-Cold War agenda, one that, as it happens, was resolved with astonishing and utterly unexpected speed. The evidence seems to point more toward the latter interpretation. As the American ambassador to the Soviet Union, Jack Matlock, recalls, "There was a change—it was rather gradual, but *very* perceptible after [Gorbachev's 1988 UN speech] in that it was no longer a zero sum game in terms of Soviet negotiating. We disagreed on a lot of things. But we all agreed the new Europe should be united. . . . And that was not characteristic of Cold War negotiations."[47] That is, well before the tumultuous events took place in Eastern Europe, the key leaders in the East and West had reached a crucial agreement: that, in Matlock's words, "Europe should be united." The rest was detail—highly significant detail to be sure, but detail nonetheless.

An important element in the institution of the Cold War was doubtless Western reaction to Soviet control over the areas it happened to occupy in Eastern Europe after World War II. But the containment policy, formulated after that accomplished fact, essentially accepted that control and was designed mainly to stop any expansion. Thus, although Soviet domination of Eastern Europe was not acceptable to the West, Cold War policy essentially acknowledged that reality. The Cold War could logically end even while such domination continued, particularly if the former contestants were determined to resolve the issue in an orderly fashion. And it did.

Previous Endings: Yugoslavia and China

This argument can, I think, be strengthened by looking at two earlier, if partial, endings in the Cold War.

[46] Oberdorfer, "Thatcher Says Cold War Has Come to an End."

[47] Comment at the Annual Conference of the Society for Historians of American Foreign Relations, Princeton University, 26 June 1999.

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Shortly after World War II, the version of Communism in Yugoslavia under Josip Tito was perhaps the most dynamically ideological and confrontational in the world. This condition changed after the Tito–Stalin split of 1948, when Tito and his party were excommunicated from the international Communist movement led by Moscow. In desperation, Yugoslavia largely abandoned its ideologically confrontational approach and sought accommodation with the West. Even though the country was still a Communist dictatorship and was to remain one for decades, the West responded almost immediately, supplying aid year after year, and it was soon declaring that Yugoslavia was "of direct importance to the defense of the North Atlantic area" and that its ability to defend itself "was important to the security of the United States." For a while Yugoslavia was close to becoming an informal participant in NATO.[48]

Similarly, when China abandoned its commitment to worldwide anticapitalist revolution in the 1970s, it was gradually embraced by the capitalist world and eventually came into something like an alliance with the United States: if the Soviet Union contemplated invading China in the 1960s, it would not have had to wonder much about the possibility that the United States would come to China's defense; by the 1980s, it would have. As early as 1980, there were official discussions between China and the United States about the possible transfer of American defense technology to China and about "limited strategic cooperation on matters of common concern."[49] All this even though the Communist Party remained (and remains) fully in control in China (as well as in colonized contiguous Tibet), even though democracy has never really been allowed to flower there, and even though (although later considerably reformed) the domestic economy remained strongly controlled from the center.[50]

The process was summarized in 1985 by Reagan adviser Richard Pipes: "China has turned inward and ceased being aggressive, and so we are friendly toward China, just as we are toward Yugoslavia. We may deplore their Communist regimes, but these countries are not trying to export their systems and therefore do not represent a threat to our national security."[51]

[48] John C. Campbell, *Tito's Separate Road: America and Yugoslavia in World Politics* (New York: Harper and Row, 1967), 24–27.

[49] Jonathan D. Pollack, "China and the Global Strategic Balance" in Harry Harding, ed., *China's Foreign Relations in the 1980s* (New Haven, CT: Yale University Press, 1984), 159. On the potential for alliance, see also Strobe Talbott, "The Strategic Dimension of the Sino-American Relationship" in Richard H. Solomon, ed., *The China Factor* (Englewood Cliffs, NJ: Prentice-Hall, 1981), 81–113. On China's abandonment of threatening ideology, see Mueller, *Retreat from Doomsday*, 184–186.

[50] In his assessment of the end of the Cold War, Andrew Kydd ignores ideological change and seeks to explain the development by stressing instead various tangible signals and reassurances put forward by Gorbachev. But as he notes in passing, China abandoned the Cold War, and was accepted by the West, even without such tangible signals. The experience serves, he suggests, "as a reminder that a transition path from communism exists that does not provide a great deal of reassurance to the outside world." Kydd, "Trust, Reassurance, and Cooperation," 350.

[51] *Policy Review* (Winter 1985): 33. An interesting comparison can be made with Cuba. Although there is little concern that that tiny nation can do much to harm the United States, a great deal of hostility toward the regime lingers in part at least because, however materially impotent, it still subscribes to a hostile ideology.

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What the Cold War Was About

By the spring of 1989, Gorbachev had been able to convince a broad array of important Western leaders and analysts as well as, it seems, the American public that the USSR was giving up on Leninist notions about the international class struggle. It no longer yearned for the demise of capitalism and, certainly, it was no longer interested in using violence in any form to accomplish that goal.[52] Once the West became convinced that this ideological reversal had taken place, the Cold War came to an end.

As noted, in his last presidential press conference, Reagan was quite clear about what the Cold War was about: "the expansionary policy that was instituted in the Communist revolution, that their goal must be a one-world Communist state."[53] And in his "beyond containment" speeches of 1989, Bush expressed a similar understanding. Containment involved denying the Soviet Union "the easy course of expansion" until it "turned inward" to address its own "contradictions." Or it required "checking the Soviet Union's expansionist aims, in the hope that the Soviet system itself would one day be forced to confront its internal contradictions." This happy consequence, Bush felt, had now come about.[54]

The quintessential and seminal declaration of U.S. policy toward international Communism remains George Kennan's "The Sources of Soviet Conduct," published in *Foreign Affairs* in 1947. Kennan expresses concern about Soviet military strength, but argues that what makes that strength threatening is an ideology that is fundamentally expansionist. In the first paragraphs of the article, he argues that "the outstanding features of Communist thought" are: "the capitalist system of production is a nefarious one which inevitably leads to the exploitation of the working class by the capital-owning class"; "capitalism contains the seeds of its own destruction" which must "result inevitably and inescapably in a revolutionary transfer of power to the working class"; countries where revolutions have been successful will "rise against the remaining capitalist world"; capitalism will not "perish without proletarian revolution"; and "a final push" is "needed from a revolutionary proletariat movement in order to tip over the tottering structure."[55]

There has been considerable debate about the degree to which ideology actually impelled Soviet policy.[56] However, over the decades, prominent Soviet leaders have repeatedly made statements such as the following:

[52] An important Soviet official observed in 1987, "Previously we reasoned: the worse for the adversary, the better for us. . . . But today this is no longer true . . . The better things are going in the European world economy, the higher the stability and the better the prospects for our development." Snyder, "Gorbachev Revolution," 115. See also Harries, "Is the Cold War Really Over?" 40–42.

[53] *New York Times*, 9 December 1988.

[54] *Public Papers of the Presidents: Bush*, 541, 602.

[55] X [George F. Kennan], "The Sources of Soviet Conduct," *Foreign Affairs* 25 (July 1947): 566–567.

[56] For an able analysis and discussion, see Nigel Gould-Davies, "Rethinking the Role of Ideology in International Politics During the Cold War," *Journal of Cold War Studies* 1 (Winter 1999): 90–109.

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> The existence of the Soviet Republic side by side with the imperialist states for a long time is unthinkable. One or the other must triumph in the end. And before that end supervenes, a series of frightful collisions between the Soviet Republic and the bourgeois states will be inevitable.[57] (Lenin)
>
> As soon as we are strong enough to fight the whole of capitalism, we shall at once take it by the neck.[58] (Lenin)
>
> The goal is to consolidate the dictatorship of the proletariat in one country, using it as a base for the overthrow of imperialism in all countries.[59] (Stalin)
>
> To eliminate the inevitability of war, it is necessary to destroy imperialism.[60] (Stalin)
>
> All the socialist countries and the international working-class and Communist movement recognize their duty to render the fullest moral and material assistance to the peoples fighting to free themselves from imperialist and colonial tyranny.[61] (Khrushchev)

Of course, there is some possibility that pronouncements like these and slogans like "Workers of the World, Unite!" are simply philosophical boilerplate.[62] And it could certainly be suggested that Western policy makers often exaggerated the degree to which the Communists had the daring, will, and capacity to carry them out.[63] However, after they have been recited millions of times in speeches, books, leaflets, brochures, letterhead, tracts, training manuals, banners, pamphlets, proclamations, announcements, billboards, handbooks, bumper stickers, and T-shirts, one might begin to suspect that the sentiments could just possibly actually reflect true thought processes.

At any rate, because such sentiments are explicitly and lethally threatening, responsible leaders of capitalist countries ought, at least out of simple pru-

[57] Frederic S. Burin, "The Communist Doctrine of the Inevitability of War," *American Political Science Review* 57 (June 1963): 337.

[58] Melvyn P. Leffler, *The Specter of Communism* (New York: Hill and Wang, 1994), 17.

[59] Historicus [George Allen Morgan], "Stalin on Revolution," *Foreign Affairs* 27 (January 1949): 198.

[60] William Taubman, *Stalin's American Policy* (New York: Norton, 1982), 224. As Taubman points out, Stalin was referring to wars *between* capitalist states, something often neglected when the West examined this statement. Nevertheless, even taking that into account, the declaration clearly remains profoundly threatening to capitalist states. On this issue more generally, see Burin, "Communist Doctrine."

[61] Hudson et al., *Sino-Soviet Dispute*, 196.

[62] This is essentially the position taken in the waning months of the Cold War by Gorbachev adviser Giorgi Arbatov, who argued that Gorbachev was in the process of destroying "anti-Soviet stereotypes." He concluded, "Something very serious is happening: The beginning of the demise of the entire political infrastructure of the Cold War. The Western press is already saying that Gorbachev's destruction of the stereotype of the 'enemy' is his 'secret weapon.' The arms race, power politics in the Third World, and military blocs are unthinkable without the 'Soviet threat.'" "Is America No Longer Exceptional?" *New Perspectives Quarterly* 5 (Summer 1988): 31. For the forceful argument that the sentiments reflected real ideological zeal and importantly affected policy during the Cold War, see Douglas J. Macdonald, "Communist Bloc Expansion in the Early Cold War: Challenging Realism, Refuting Revisionism," *International Security* 20 (Winter 1995/96): 152–188.

[63] See Robert H. Johnson, *Improbable Dangers: U.S. Conceptions of Threat in the Cold War and After* (New York: St. Martin's, 1994).

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dence, to take them seriously. And it seems clear that Western leaders and analysts like Kennan, Churchill, Dulles, Kennedy, Thatcher, Reagan, Shultz, and Bush did so. Moreover, it rather appears that these ideological threats were absolutely crucial to the Cold War. Once Gorbachev was able to convince Western leaders that the Soviet Union no longer subscribed to such notions, the Cold War came to an end, even though other aspects of the international environment remained substantially unchanged.

John Gaddis has observed that "Moscow's commitment to the overthrow of capitalism throughout the world had been the chief unsettling element in its relations with the West since the Russian revolution."[64] The ending of the Cold War suggests that that commitment comes close to being the only cause of the Cold War. As Jack Matlock puts it, "The cold war could not end, truly and definitively, until the Soviet Union abandoned its system's ideological linchpin, the class struggle concept."[65] That is, even if the Soviet Union had retrenched geographically and militarily, it would have continued to be seen as an adversary—although a somewhat less-potent one—if it had continued to embrace its threatening ideology.

The Cold War, in essence, was not about Communism per se, about Soviet control over Eastern Europe, about Communist control in the Soviet Union, or about arms and power balances. It was about something else: the Soviet Union's attraction to, and support of, an ideology that threatened the West. Once that changed, the Cold War came to an end. Other developments, however important historically, were essentially ancillary. And by the spring of 1989, the necessary and sufficient condition for the ending of the Cold War was in place. Nothing more was required.

[64] John Lewis Gaddis, "Was the Truman Doctrine a Real Turning Point?" *Foreign Affairs* 52 (January 1974): 388; see also Garthoff, *Great Transition*, ch. 16.

[65] Matlock, *Autopsy*, 649.

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Presidents, Responsiveness, and Competence: Revisiting the "Golden Age" at the Bureau of the Budget

MATTHEW J. DICKINSON
ANDREW RUDALEVIGE

Scholars generally agree that since at least the 1970 reorganization of the Bureau of the Budget (BoB) into the Office of Management and Budget (OMB), that agency has been significantly politicized. During the ensuing three decades, the number and influence of the presidents' appointees at the OMB's upper levels have increased and the agency has generally been viewed as more responsive to individual presidents' political interests.[1] There is much less consensus, however, regarding the merits of this development. Critics argue that politicization has forced the OMB to abandon its long-standing commitment to an ethos of "neutral competence" dating back to its "golden age" under Presidents Franklin D. Roosevelt and, especially, Harry S. Truman, and continuing to some degree through the Lyndon B. Johnson presidency. In its pre-OMB period, the career-dominated BoB provided presidents with continuity, institu-

[1] Succinct overviews include James P. Pfiffner, "OMB: Professionalization, Politicization, and the Presidency" in Colin Campbell and Margaret Jane Wyszomirski, eds., *Executive Leadership in Anglo-American Systems* (Pittsburgh, PA, University of Pittsburgh Press, 1991); and Judith E. Michaels, *The President's Call: Executive Leadership from FDR to George Bush* (Pittsburgh, PA, University of Pittsburgh Press, 1997), 70–77.

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tional memory, and policy expertise free from the taint of political bias. Since 1970, however, these important qualities have been largely lost. As one scholar put it, "Its leadership became inexpert and partisan, thus compromising the agency's claim to neutral competence. . . . Having exchanged neutrality for presidential partisanship, OMB lost legitimacy with other political institutions . . . ."[2]

Defenders of this more politicized OMB, however, argue that the luster of any pre-1970 "golden age" is tarnished precisely because of the BoB's nonpolitical orientation. They believe that the agency's organizational routines were geared to the needs of the permanent bureaucracy, not of the president, and that the agency was never as useful to presidents as it might have been during this period. Indeed, the post-1970 transformation signified a long-desired and entirely rational shift in OMB orientation toward an ethos of "responsive competence" more congruent with a president's administrative needs.[3] Seen through the responsive-competence lens, the years at midcentury are colored not golden, but rose.

For the most part, efforts to assess the competing arguments have largely focused on the post-1970 era. Scholars have paid particular attention to the OMB under President Ronald Reagan, when it is generally agreed that politicization reached its high-water mark; numerous studies document the OMB's more partisan budgeting, legislative, and regulatory roles during the 1980s.[4] Conversely, although scholars agree that the BoB's commitment to neutral competence peaked under Truman in the period 1945–1953, there is much less evidence documenting what this meant in practice.[5]

To redress this empirical imbalance, and to push the theoretical debate further, this article examines the role and responsiveness of the Truman-era BoB.

[2] Margaret Jane Wyszomirski, "The De-Institutionalization of Presidential Staff Agencies," *Public Administration Review* 42 (September/October 1982): 455. See also the testimony of former OMB official Dwight Ink, "Is the OMB Fulfilling its Mission?" House Committee on Government Reform, Subcommittee on Government Management, Information, and Technology, 7 April 2000.

[3] Terry M. Moe, "The Politicized Presidency" in John Chubb and Paul E. Peterson, eds., *New Directions in American Politics* (Washington, DC, Brookings Institution, 1985); Michael Sanera, "Implementing the Agenda" in Stuart M. Butler, Michael Sanera, and W. Bruce Weinrod, eds., *Mandate for Leadership II* (Washington, DC, Heritage Foundation, 1984); David A. Stockman, *The Triumph of Politics* (New York, Harper and Row, 1986).

[4] See, Moe, "Politicized Presidency"; Stockman, *Triumph of Politics*; David Mathiasen, "The Evolution of the Office of Management and Budget under President Reagan," *Public Budgeting and Finance* 8 (Autumn 1988): 3–14; Peter M. Benda and Charles H. Levine, "Reagan and the Bureaucracy: The Bequest, the Promise and the Legacy" in Charles O. Jones, ed., *The Reagan Legacy: Promises and Performance* (Chatham, NJ, Chatham House, 1988); Bruce E. Johnson, "From Analyst to Negotiator: The OMB's New Role," *Journal of Policy Analysis and Management* 3 (Summer 1984): 501–515; Chester A. Newland, "Executive Office Policy Apparatus: Enforcing the Reagan Agenda" in Lester M. Salamon and Michael S. Lund, eds., *The Reagan Presidency and the Governing of America* (Washington, DC, Urban Institute, 1985); and Francis E. Rourke, "Executive Responsiveness to Presidential Policies: The Reagan Presidency," *Congress and the Presidency* 17 (Spring 1990): 1–11.

[5] But see Patrick J. Wolf, "Neutral and Responsive Competence: The Bureau of the Budget, 1939–48, Revisited," *Administration and Society* 31 (March 1999): 142–167.

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Utilizing historical documents at the Truman Library and the National Archives, as well as memoirs and secondary literature, we demonstrate that the BoB was no less responsive to Truman's political interests than was the OMB to the post-LBJ presidents. That is, the BoB exhibited "responsive competence" long before political scientists coined the term. At the same time, however, its responsiveness embodied many of the virtues extolled by advocates of neutral competence: continuity, input from career employees, and a desire to protect the presidency as an institution. Extrapolating from the Truman BoB, we argue that what has likely changed in the intervening years is not the logic governing BoB/OMB operations, but the interests of presidents themselves. Simply put, in the era of divided government, burgeoning budget deficits, growing regulatory complexity, and declining trust in governmental solutions to public problems, presidents see virtues in an OMB organized to facilitate "top-down" control over policy making and implementation. Truman, by contrast, was better served politically by a BoB designed to facilitate effective governance by meshing its organizational routines with those of the permanent government. In short, we argue that all presidents seek responsiveness, but that this manifests itself in very different ways, depending on each president's political interests.

Our findings have several broader implications. First, the flaw in many responsive-competence arguments is their attempt to define all presidents' administrative needs in terms of those that drove primarily Republican presidents to politicize the OMB after 1969. Conversely, those who wax nostalgic for a bygone era of neutral competence tend to underestimate how politically responsive the BoB was under Truman—and how presidents' managerial demands have changed in the intervening years. More generally, the question raised by the extant literature—should presidents seek political responsiveness, or technical but politically neutral competence?—too often treats the two perspectives as mutually contradictory.[6] We argue here that they are better understood as different manifestations of a single, fundamental administrative logic embraced by all modern presidents: the need to devise the managerial tools most effective for influencing governmental outcomes.

In the remainder of the essay, we expand upon these points. In the next section, we highlight the salient features of the neutral–responsive-competence debate, drawing heavily on two highly influential and frequently cited articles by Hugh Heclo and Terry Moe that encapsulate the opposing arguments. The two following sections document the evolution of the Bureau during the crucial postwar years. While this discussion elaborates the politically responsive nature of the Truman BoB, it also clarifies how the nature of that responsiveness dif-

[6] See, for example, Francis Rourke, "Responsiveness and Neutral Competence in American Bureaucracy," *Public Administration Review* 52 (November/December 1992): 539–546; John P. Burke, *The Institutional Presidency* (Baltimore, MD, Johns Hopkins University Press, 1992), 181–188; Walter Williams, *Mismanaging America: The Rise of the Anti-Analytic Presidency* (Lawrence, University Press of Kansas, 1990), 89–100.

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fered from its current manifestation. We conclude by proposing a more discriminating logic for studying presidential politicization and institutional development.

Neutral and Responsive Competence: The Debate

Academic arguments about the distinct nature of politics and administration date back at least to Woodrow Wilson's "The Study of Administration" in 1887.[7] But the central tenets of the neutral–responsive-competence debate that emerged in the aftermath of the BoB's reorganization in 1970 were most clearly foreshadowed by Herbert Kaufman in the mid-1950s. Kaufman argued that beginning in the late nineteenth century, American administrative institutions were typically organized to achieve two overarching values: neutral competence and executive leadership. Neutral competence—primarily the development of a merit-based, professionally trained civil service—became the dominant administrative goal at the turn of the century, in reaction to the excesses of the spoils system and as a more general quest for "good government." However, the early twentieth century also saw the beginning of efforts to augment executive influence through the development of executive budgets, enhanced reorganization authority, and other administrative innovations. By strengthening executives' management capacity, reformers hoped to counter the centrifugal forces that fragmented the American political system into competing loci of power. Although these were not initially viewed as mutually exclusive strategies, Kaufman argues that scholars, over time, became increasingly divided between those who embraced neutral competence and those supporting reforms designed to enhance executive leadership.[8]

Richard Nixon's 1970 reorganization of the BoB into the OMB provided plenty of empirical grist for the two camps' conceptual mills. The stress on management in the new title highlighted Nixon's desire to extend his administrative control over the wider executive branch. Rather than rely on the OMB's cadre of career civil servants for support, Nixon sought to make the OMB more responsive to his political interests. He did this, in part, by moving the OMB director's office into the West Wing of the White House, and by adding a layer of politically appointed program associate directors to head the examining divisions that were responsible for putting together the executive budget.[9]

A series of scholarly studies produced in the aftermath of the reorganization compared the new OMB unfavorably to a neutrally competent BoB of

[7] Woodrow Wilson, "The Study of Administration," *Political Science Quarterly* 2 (June 1887): 197–222.

[8] Herbert Kaufman, "Emerging Conflicts in the Doctrines of Public Administration," *American Political Science Review* 50 (December 1956): 1057–1073.

[9] Pfiffner, "OMB: Professionalization," 208; Shelley Lynne Tomkin, *Inside OMB* (Armonk, NY, M.E. Sharpe, 1998), 54.

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"golden age" lore.[10] In the aftermath of the 1970 reorganization, the OMB had become increasingly identified with Nixon's political agenda—by, for example, impounding funds that had been appropriated by Congress for programs that Nixon opposed. Congress reacted in 1974 by requiring that the OMB director be subject to Senate confirmation, evidence that it now viewed the agency as a political arm of the president. It also passed legislation curbing presidential impoundments and creating the Congressional Budget Office to give Congress its own source of budget analysis.

To Hugh Heclo, whose insightful "The Office of Management and Budget and the Presidency" typifies this literature, this chain of events demonstrated that the OMB's closer identification with Presidents Nixon and then Gerald Ford undermined its traditional role as a repository of neutral competence, at a time when presidents' need for those skills was increasing. Heclo argued that agencies embodying neutral competence are valuable to presidents in a number of ways. First, they provide independent analysis and are better able to extract information and support from the permanent bureaucracy, using their knowledge of governmental folkways to smooth communication and diminish confrontation. Second, their "vested interest in continuity," grounded in career-based employees, adds institutional memory and focuses on the long-term impact of presidential decisions—concerns often ignored by elected officials and staffs focused on the immediate outcome of a decision. Third, neutrally competent agencies provide a means of coordinating the executive branch to address growing expectations of government performance. Ultimately, Heclo argues, what presidents really need is not a politicized OMB. Instead, they require "a place with a fine disregard for the political bearing of who believes what at a given time," able to give its "best independent judgment of the issues" to whoever is president. That does not make such an agency politically tone deaf but, rather, provides "partisanship that shifts with the changing partisans."[11]

In this view, these benefits were lost as the OMB became increasingly concerned with the interests of specific presidents. Indeed, the more responsive the OMB was to individual presidents, the less able it was to safeguard the office of the presidency.[12] Politicization blurred the line between the OMB's governmental authority as an institution of the presidency and its political power as an extension of the president's personal staff. Other actors, viewing the OMB as a tool of the president, were less willing to communicate with the agency or allow it to broker disputes.

[10] Larry Berman, *The Office of Management and Budget and the Presidency, 1921–1979* (Princeton, NJ, Princeton University Press, 1979); William Carey, "Reorganization Plan No. 2," *Public Administration Review* 30 (November/December 1970): 631–634; Robert S. Gilmour, "Central Legislative Clearance: A Revised Perspective," *Public Administration Review* 31 (March/April 1971): 150–158; Hugh Heclo, "The Office of Management and Budget and the Presidency: The Problem of Neutral Competence," *The Public Interest* 38 (Winter 1975): 80–98; Allen Schick, "The Budget Bureau That Was: Thoughts on the Rise, Decline, and Future of a Presidential Agency," *Law and Contemporary Problems* 35 (Summer 1970): 519–539.

[11] Heclo, "Office of Management and Budget," 81–82, 97.

[12] On this point, see also Harold Seidman and Robert Gilmour, *Politics, Position, and Power*, 4th ed. (New York, Oxford University Press,.1986), 74–75.

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Although Heclo and other researchers in this vein acknowledge the forces that impelled Nixon to reorganize the BoB, they nonetheless view its repercussions as largely negative. Despite scholarly misgivings, however, Nixon's presidential successors did nothing to reverse their predecessor's actions. Indeed, under Presidents Jimmy Carter and Ronald Reagan, the OMB gained still more political appointees, acquired more responsibilities in regulatory analysis and budget review, and generally grew even more politically influential and responsive to the president.[13]

Moreover, a counterargument quickly arose defending the OMB's evolving politicization. Terry Moe's oft-cited 1985 essay, "The Politicized Presidency," is perhaps most noteworthy in this regard. Using as his primary example Ronald Reagan (who utilized the OMB in much the same way that Nixon did, but with greater success), Moe critiqued "neutral competence" as a normative ideal that ignored the day-to-day realities that presidents confront. When expectations for presidential performance outstrip the institutional capacities of the presidency, he argues, presidents have no choice but to respond by politicizing the presidency. Because the reach of presidents is institutionally (and constitutionally) limited, they act to build and shape what is within their grasp. "By appointing individuals on the basis of loyalty, ideology, or programmatic support, he can take direct action to enhance responsiveness throughout the administration, from presidential agencies like the OMB to the most remote independent boards and commissions," Moe notes. Thus the post-LBJ presidents' decisions to politicize the OMB are a perfectly rational response to growing demands for leadership against a backdrop of limited administrative options.[14]

In contrast to Heclo, then, Moe believes that presidents need *responsive* competence—and responsiveness more than competence generally. Indeed, Moe argues that the BoB was less useful to Presidents Roosevelt and Truman than it might otherwise have been precisely because its devotion to neutral competence made it unable to provide these presidents with politically oriented advice and services. Assessing the newly established Executive Office of the President in the post-1939 era (and its centerpiece, the vastly expanded BoB), Moe writes, "In both design and capacity . . . the new institutional system was inadequate to presidential needs from the start." The problem, he argues, was that the BoB's legislative clearance and budgeting routines developed in ways that were oriented more to the needs of the permanent government, interest groups, and Congress than to those of the president. For Truman and his suc-

[13] Pfiffner, "OMB: Professionalization"; Williams, *Mismanaging America*; Tomkin, *Inside OMB*; John Hart, *The Presidential Branch*, 2nd ed. (Chatham, NJ, Chatham House, 1995), 80–86.

[14] Moe, "Politicized Presidency," 245. As John Hart summarizes: "[The] politicization of the institutional presidency . . . runs counter to so many of the class textbook virtues of neutral competence. To a succession of presidents, however, these virtues are found only in textbooks." Hart, *Presidential Branch*, 216; see also Terry Eastland, *Energy in the Executive* (New York, Free Press, 1992); Richard Nathan, *The Plot that Failed* (New York, Wiley, 1975); Richard Nathan, *The Administrative Presidency* (New York, Wiley, 1983).

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cessors, then, "the structural outlines of the institutional presidency were set by the Brownlow reforms . . . and they had no practical choice but to work within the confines of the framework they inherited." It was not until Nixon that the disjunction between the BoB's organizational routines and the president's political needs finally began to be bridged.[15]

Moe's otherwise cogent defense of a politicized presidency contains a puzzle, however. If, as he indicates, the administrative logic driving presidents' institutional choices did not vary over this time period, why did it take a quarter-century to replace the neutrally competent BoB with the more politically responsive OMB? Why didn't presidents before Nixon actively seek to politicize an unresponsive BoB?

Although neither Moe's nor Heclo's essay is meant to be a historical study, each cites the Truman-era BoB in defense of his perspective. As we shall see, however, each side tends to mischaracterize the agency's role in this period. In the next two sections, we utilize archives, memoirs, and the secondary literature to reexamine the puzzle noted above. We find that Truman did not politicize the BoB during the period 1945–1952 because there was no need to do so: the BoB was no less responsive to his political interests (or those of his successors, for the most part) than was the OMB to the post-Johnson presidents. Over time, however, how presidents define responsiveness has evolved and so too have their expectations of their staff agencies.

Golden Age, or Fool's Gold? The Truman BoB Revisited

The Legislative Program

The BoB's expanding role in identifying and formulating a legislative program was probably the most significant institutional development of the Truman presidency, and it has received extensive scholarly documentation.[16] Legislative clearance thus provides a useful vantage for assessing BoB performance: did the agency carry out this function in a manner more consistent with the tenets of neutral competence or political responsiveness?

The BoB's involvement in legislative clearance dates to shortly after its creation in the 1921 Budget and Accounting Act.[17] Originally, clearance meant that the BoB had the power to approve agency testimony and legislation on fiscal matters; in the 1920s, this was utilized mainly to limit expenditures. Frank-

[15] Moe, "Politicized Presidency," 249 and 246–249 generally.

[16] Berman, *Office of Management*; Richard E. Neustadt, "Presidency and Legislation: The Growth of Central Clearance," *American Political Science Review* 48 (September 1954): 641–671; Richard E. Neustadt, "Presidency and Legislation: Planning the President's Program," *American Political Science Review* 49 (December 1955): 980–1021; Andrew Rudalevige, *Managing the President's Program: Presidential Leadership and Legislative Policy Formulation* (Princeton, NJ, Princeton University Press, 2002); Stephen J. Wayne, *The Legislative Presidency* (New York, Harper and Row, 1978).

[17] This section draws heavily from Neustadt, "Planning the President's Program."

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lin Roosevelt expanded the process to include analysis of both the cost and substance of all legislation, first through the mechanism of the interdepartmental National Emergency Council and then, after 1937, through the BoB. The BoB's Division of Coordination—renamed the Legislative Reference Division (LRD) in 1940—was put in charge of clearing administration-proposed legislation and departmental testimony to determine whether it was "in accord" with the president's agenda, and recommending presidential action on enrolled bills (that is, those approved by Congress and awaiting presidential signature) after soliciting commentary from the relevant agencies. During World War II, this system was understaffed and reactive, heavily dependent on agency cooperation. But when the war ended, several converging developments brought legislative clearance to the fore.

The first was the Employment Act of 1946, demanding governmental action across the breadth of the economy, and requiring the president to prepare an Economic Report each year presenting relevant recommendations. This report, in turn, had to be harmonized with the president's annual State of the Union and Budget messages. As the 1948 presidential election approached, Truman's political interests inexorably colored how the BoB performed these tasks. To make the 80th Congress's "do nothing" legislative record an issue in the coming campaign, the administration needed to develop an affirmative and comprehensive alternative agenda. That is, it needed a *presidential* program, as opposed to using central clearance simply to aggregate departmental requests. The goal in 1948, as White House Counsel Charles Murphy later noted, was "to have a special message ready to go to Congress every Monday morning."[18]

The BoB was well positioned to take on this task. But it faced potential institutional rivals. Under the Employment Act, the newly established Council of Economic Advisers (CEA) was responsible for producing the Economic Report. The Office of War Mobilization and Reconversion (OWMR), created to wind down the war-time agencies, had developed its own extensive staff; there was talk that it might evolve into a domestic policy agency.[19] Thus, BoB director James E. Webb preemptively sought to take charge of the program development process. The BoB moved first to provide the staff necessary to coordinate the three annual messages, undercutting the OWMR's and the CEA's need to develop countervailing capacity. Then it moved ahead into affirmative planning: by the summer of 1948, the BoB had a process in place for the 1949 program. A November 1948 memo from assistant director Elmer Staats to Webb assumed that the White House would "take the lead" on determining legisla-

[18] Quoted in Francis H. Heller, ed., *The Truman White House: The Administration of the Presidency, 1945-1953* (Lawrence, Regents Press of Kansas, 1980), 90.

[19] See the oral history of BoB staffer Roger Jones, Harry S. Truman Library (hereafter "HSTL"), Independence, Missouri, 89–90; the BoB "Staff Memorandum: Executive Branch Teamwork in the Critical Days Ahead" of 7 April 1948 proposes a division of labor among the BoB, CEA, National Securities Resource Board, and the National Security Council. Papers of James E. Webb, Box 5, folder entitled [BoB: Commission on the Organization of the Executive Branch of the Government], HSTL.

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tive strategy in tandem with the BoB, the latter serving as the crucial link between agency proposals and White House desires. In a parallel memo, Richard Neustadt (then a BoB Legislative Reference staffer) noted that the Bureau shouldn't bother asking the agencies for actual language for the President's messages, inasmuch as "most of the material last year was of little use in writing." The BoB and the White House would take care of that themselves.[20]

The BoB careerists were acutely aware that when identifying items as part of the President's legislative program, they had to be sensitive to Truman's political interests. In an internal memo, Staats told BoB division chiefs that the Bureau would have to come up with information beyond the technical details of legislation for the President's decision. This included answering "questions of scope and relative emphasis in the messages on program, timing of introduction, relative administration priority, form of . . . Congressional presentation, and possible upward or downward effects on budget allowances." In short, objective, substantive analysis had to be accompanied by political intelligence and information. Legislative Reference strove to fit its advice into that frame of reference. Because the small LRD relied heavily on the BoB's other divisions, especially the Estimates Division, for assistance, this meant that the subject matter budget examiners needed to do the same.[21]

In the fall of 1949, for example, the LRD assembled a large briefing book for the White House, noting the present status of the legislative proposals made by each department or agency, along with the examiner's recommendation for 1950. This recommendation was often both substantive and political, in the sense that it urged a particular set of priorities and/or assessed a measure's chance of passage. For example, the Labor and Welfare branch of the BoB urged that revisions to the federal unemployment program be "vigorously proposed in appropriate message as high priority item." On the other hand, it assessed the Labor Department's efforts to rework the Taft-Hartley law as a politically unacceptable "former status quo with small concessions" and noted

[20] See Neustadt, "Planning the President's Program," 1008, for a detailed chronology; Staats to Director, 12 November 1948, "Some Immediate Issues in Relation to the President's Legislative Program for the Forthcoming Session," 4, in the Neustadt Papers, Box 10, [Addendum: Budget Policy and Legislative Program, 1948–49], HSTL; Neustadt to Charles Stauffacher, D. Bell, and J. Weldon Jones, "Departmental Reports to the President re State of the Union Message, Economic Report, and Legislative Program," 4 November 1948, in Neustadt Papers, Box 1, [Chron. Files, May–Dec. 1948], HSTL.

[21] Staats to Stauffacher, Martin, and J.W. Jones, "Review of Legislative Proposals prior to Convening of 81st Congress," 6 December 1948, in Neustadt Papers, Box 11, [Addendum: Budget Policy and Legislative Program, 1948–49], HSTL. On LRD, see, for example, MacPhail and Neustadt to Roger W. Jones, "Bureau Procedure for Utilizing Agency Legislative Programs Submitted under Sec. 86, 'Call for Estimates,'" 6 September 1949, in Record Group [RG] 51, Legislative Reference Division Subject Files, 1939–70 (series 39.39) (hereafter "LRD Subject Files"), Box 4, [Legislative Program—81st Cong., 2nd sess.], National Archives II (hereafter "NA-II"), College Park, MD; R.W. Jones to J.W. Jones, McCandless, Rice, and Stauffacher, "Special Assignments for Review and Development of Legislative Proposals," 29 November 1949, in Papers of George Elsey, Box 80, [Legislation, 81st Cong., 2nd sess., general information, folder 2], HSTL.

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that work was needed to unite organized labor behind other potential proposals. A similar compilation in 1950 complained that a children's health measure was "a bad bill and should be omitted from the President's program," while for the St. Lawrence seaway project, the recommendation was "Rush—get anything we can. Accept power [generation] now, if necessary, and get seaway later."[22]

It is likewise little remembered that the BoB had field offices—in Chicago, Dallas, Denver, and San Francisco. These served as information depots, gathering political intelligence on public opinion, interest groups, and local policy impacts—even tracking press coverage of campaign issues and events.[23] A 1950 meeting of the BoB's division chiefs urged that this be done better: "While certain Field Service offices have done excellent jobs in transmitting the attitudes of pressure groups, in reporting on [Marshall Plan] effects on small business, and so on, the newspaper clipping kind of approach has probably proved less valuable, possibly dangerous inasmuch as the clippings come from the same particular sources and as a result fail to reflect general attitudes in a community."[24] Needed instead were political data of use in developing program items, such as those underlying a field memo reviewing the 1949 program; this, for instance, noted "our distinct impression that reciprocal trade agreements enjoy popular support and are desired by the people of the Middle West."[25]

Over time, the Bureau tweaked the legislative reference process in ways that expanded its utility to the President. Two memos from Neustadt to LRD head Roger Jones are instructive. In the fall of 1949, Neustadt recommended that Legislative Reference take on an enhanced role in evaluating for the White House the various agency proposals, as "the only way to do a good job on this thing and keep our own hand in properly . . . ." Like any good bureaucratic infighter, Neustadt urged that BoB control the paper flow: "That latter applies particularly to the idea that we will prepare the supplement on legislation for the President's highlight memorandum."[26]

[22] In 1949, the examiners noted: "Recommend White House inform Secretary of Labor that labor extension was omitted from Administration program pending development of an acceptable bill—fiscally and administratively sound and on which AFL and CIO can give united support." In "Evaluation of Legislative Proposals," RG 51, LRD Subject Files, Box 4, [Evaluation of Legislative Program and Highlight Memos, 81st Cong., 2nd sess.], NA-II. For 1950, see "Reaction of Estimates Branches to Items of Unenacted Legislation," 23 October 1950, RG 51, LRD Subject Files, Box 4, [Legislative Program, 82nd Cong., 1st sess.], NA-II.

[23] See the memos on the 1952 campaign in the folder entitled [Legislative Program, 83rd Cong., 1st sess. (General)], LRD Subject Files, Box 5, NA-II, for example, that from L.C. Gibson to W.H. Snyder entitled "Analysis of Presidential Campaign, Chicago area," 25 September 1952. In San Francisco, the field office actually tried to measure the crowds for rival Eisenhower and Stevenson rallies.

[24] "6/5/50 Notes on Division Chiefs Meeting," Lawton Papers, Box 3, [BoB–Staff Meetings], HSTL, 1–2.

[25] L.C. Gibson to Mr. Garber, "Comments on Tentative List of Legislative Items for 81st Congress," 16 September 1948, in RG 51, LRD Subject Files, 1939–70, Box 3, [Legislative Program, 81st Cong., 1st sess.], NA-II.

[26] MacPhail and Neustadt to Jones, "Bureau Procedure For Utilizing Agency Legislative Programs."

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In May 1950, Neustadt suggested that LRD expand another function, that of legislative monitoring. The LRD was already responsible for maintaining checklists, for distribution to Budget and White House staff, regarding presidential program items and their status in Congress.[27] Gathering this information allowed LRD to serve as a conduit of political intelligence to the White House and the rest of the BoB; at a January 1950 staff meeting, for example, the Division reported that the "legislative outlook generally is confused, uneasy, uncertain. . . . Few rallying points of Administration forces yet identified." It went on to present a lengthy summary of current House and Senate flashpoints. However, advance assessment—systematically learning Congressional plans for action—was a "particularly big hole" and one Neustadt thought BoB could fill immediately. Once that was done, Neustadt continued, it was his hope to track areas where presidential items were running into trouble, and "having identified the problems, inventory possibilities for repairs and mobilize spot salvage operations."[28]

The BoB's role in putting together a presidential program forced it to work very closely with Truman's White House staff. Staats recalled, "Given the close adjunct relationship . . . with the special counsel's office, [Clark] Clifford then [Charles] Murphy, we were never quite sure who we were working for, the budget director or the counsel. But that didn't really make too much difference."[29] By 1950, White House counsel Murphy could write to House Majority Leader John McCormack that "So far as we are concerned, the [LRD] provides our chief resource for information and staff work on Executive Branch views concerning the general run of legislation."[30] A 1954 study of the Executive Office of the President concluded, "The fluidity of operations between the White House and the Office of Legislative Reference is such that it is sometimes difficult to tell where the work of one begins and that of the other ends. Frequently, the office does jobs which one might think belonged most logically with the White House staff and vice versa."[31]

This permeability was especially useful to the President in the legislative arena, given the crucial dual role of legislative messages both in deciding what

[27] See Neustadt to Staats, memo of 20 February 1948, "Special Report on Status of Selected Items in the President's Legislative Program," Webb Papers, Box 18, [BoB: Leg. Status Reports, 80th Cong., 2nd sess. (folder 1)], HSTL, and Neustadt to Staats, memo of 23 November 1948, "Legislative Progress Reporting for the President," Neustadt Papers, Box 1, [Chron. Files, May–Dec. 1948], HSTL.

[28] "1/27/50 Staff Meeting Items Check List," Lawton Papers, Box 3, [BoB–Staff Meetings], HSTL; Neustadt to Jones, "Weekly Reports on Anticipated Congressional Schedules," 15 May 1950, in RG 51, LRD Subject Files, 1939–70, Box 4, [Legislative Program, 82nd Cong., 1st sess.], NA-II.

[29] Heller, *Truman White House*, 227.

[30] Murphy to Rep. John McCormack, 9 January 1950, Neustadt Papers, Box 1, [Chron. Files, Oct. 1949–May 1950], HSTL.

[31] The Legislative Reference Division became the Office of Legislative Reference in 1952, then became a division again in a later reorganization. Edward H. Hobbs, *Behind the President: A Study of Executive Office Agencies* (Washington, DC, Public Affairs Press, 1954), 59; see also Edward S. Flash, Jr., *Economic Advice and Presidential Leadership* (New York, Columbia University Press, 1965), 44–45.

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policy was to be and in presenting it. As Neustadt has noted, prior to the revamped LRD function, the White House had no way to control systematically what was being designated "in accord" with the President's program; this had been left up to the BoB examiners. Legislative Reference added a layer of responsiveness and White House control, a structural underlay linking budgetary, legislative, and political advice.[32]

Formulating and Selling Policy

As this account suggests, BoB personnel did more than identify the President's legislative priorities: they were actively involved in shaping those priorities into legislation and in tracking that legislation as it worked its way through Congress. For example, budget careerists like David Bell, Harold Enarson, Ross Shearer, and David Stowe worked on the labor management legislation contained in Truman's 1947 State of the Union message. When Congress began debating the controversial Taft-Hartley bill, Bell recalled that:

> Clifford used us as his personal staff to keep track of the progress of the legislation, and to analyze the various provisions that were under consideration. . . . Then we assisted him in drafting the Taft-Hartley veto message after the bill was enacted. All this, incidentally, was and is not extraordinary but a frequent type of service that Budget Bureau staff members become involved in, because the Budget Bureau is part of the Executive Office of the President and serves as an augmentation staff for the White House.[33]

Harold Seidman, then a budget examiner, played a similarly holistic role for a bill reorganizing the governance of the Panama Canal Zone in 1950. Seidman recalled that some of his decisions on the bill creating a Panama Canal Corporation displeased Canal Zone Governor Francis Newcomer, but that the Governor "did not really understand how the Truman White House operated." Seidman went on:

> He thought "all I have to do is to get the Secretary of the Army to oppose something and that will be the end of it, so I'll just wait until it gets to the White House." Well, of course they didn't know the system. When it got to the White House, I was doing the staff work. . . . I was also writing the replies that were coming from the White House on this. I was not only serving in the capacity of working for the Budget Bureau, but I was also assisting the staff of the White House, and Governor Newcomer was quite chagrined . . . .

[32] Neustadt to Staats, "The Workload of the Director and Acting Assistant Director," no date (1947), in RG 51, Entry 9B, Records Related to the Administrative Management of the Bureau of the Budget, 1939–52, Box 4, [B2-5 Office of the Director], NA-II. In 1948, Neustadt called his move from the Director's Office at BoB to the LRD "part of a relatively planned program for expanding the operation, particularly in its White House and agency relationships." Neustadt to Payson Wild, 5 May 1948, Neustadt Papers, Box 1, [Chron. Files: May–Dec. 1948], HSTL.

[33] David Bell oral history, HSTL, 3–4. See also Clark Clifford's warm letters of 8 January 1947 to "My dear Jim" Webb thanking him for the use of Budget staffers. Webb Papers, Box 8, [BoB: Clark Clifford], HSTL.

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> The message, of course, that Mr. Truman sent, I did draft in the Budget Bureau. . . . I got the maritime groups and the railroads both to support [the bill]. I was up there writing amendments and testifying in executive session of the Committee. . . . The job of marshaling support, talking to the committee members, of reconciling the differences between the interest groups in the community, was my job. . . . There wasn't a legislative liaison staff.[34]

Seidman, then, researched the bill, wrote it, defended it against agency meddling, wrote the President's letter presenting it to Congress, convinced legislators of its merits, and persuaded the major interest groups to sign on. To be sure, this was a relatively minor piece of legislation, but it illustrates the close involvement of the BoB in every step of the legislative process.

Even though the Bureau did not generally see its role as lobbying for the President's program in Congress, the line between providing substantive advice and "carry[ing] the program on the Hill" was "awfully fine," as Elmer Staats recognized in a 1948 BoB senior staff meeting. Because presidents had not yet established a White House congressional liaison staff, the BoB took on some of these functions. As Staats noted, "The fact that we have not had in the past years a member of the White House staff concerned with substantive issues in dealing with chairmen and congressional leadership is an important deficiency and colors the role we play in some of these substantive issues."[35] This was exacerbated by the fact that, as Neustadt's suggestions above stress, legislative intelligence was crucial to White House decision making. For its part, Congress clearly recognized that the BoB was a presidential agency. Fred Lawton, later Truman's third Budget Director, told other staffers that a Representative had observed, "You are the President's man. We cannot consider your judgment wholly objective. It is a reflection of presidential policy. . . . We are willing to take facts, but when it comes to the interpretation of the facts, areas of judgment, we get a little suspicious, because you do represent the President."[36]

As the Taft-Hartley and Panama Canal examples make clear, the Bureau staff was also involved in selling the President's policy to the public, through their involvement in writing speeches and messages for the White House. James Sundquist, for example, who joined the BoB under Harold Smith, worked on a large number of presidential speeches. He helped write the 1945 message urging consolidation of the War and Navy departments and the 1947 State of the Union address. And in 1950, Sundquist was asked by the White House to write speeches—even on foreign policy—for Truman's trip through the western states.[37]

[34] Harold Seidman oral history, HSTL, 10–11, 47–48, 58, and 56–63 in general.

[35] Staats comments in "Excerpts from Staff Meeting Minutes: Bureau's Relationship with Congress," 29 September 1948 and 7 October 1948, Lawton Papers, Box 3, [BoB–Staff Meetings], HSTL. Privately, Staats went so far as to suggest the Bureau try to place candidates on Congressional committee staffs, although he cautioned that "the initiative will have to, at least, have the appearance of coming from Congress." Staats to Director, "Some Immediate Issues in Relation to the President's Legislative Program for the Forthcoming Session," 12 November 1948, Neustadt Papers, Box 10, [Addendum: Budget Policy and Legislative Program, 1948–49], HSTL.

[36] Lawton comments in "Excerpts from Staff Meeting Minutes: Bureau's Relationship with Congress," 29 September 1948 and 7 October 1948.

[37] James Sundquist oral history, HSTL, 9–14.

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Political Advice

The BoB, then, was clearly expected to respond to the President's political needs. Like his predecessor, Harold Smith, James Webb served as conduit and conductor of policy and political intelligence to and from the President and his political aides. For example, soon after the 1946 Republican takeover of Congress, Webb met privately with Chief Justice Fred Vinson and former South Carolina Governor Max Gardner to discuss the newly dismal political scene, optimal presentation of the new budget, and what organizational changes might be politically desirable. Webb also turned for advice to Roosevelt patronage czar Jim Rowe, who served as a consultant to the BoB and provided a stream of advice transmitted by Webb to the White House staff or the President. In a joint oral history, Neustadt—who served as Webb's immediate assistant before shifting to the LRD—commented: "I think Jim felt he was as much a Presidential person as Charlie [Murphy] was." Webb replied: "That's right. I was talking to political people every day. Senators would call me up. I wouldn't let [Neustadt] listen in on the conversation but he could hear my end. . . . So he got information that he could pass on to the Bureau [about] some of the political problems and pressures that come from the U.S. Senate."[38]

In general, the political and electoral ramifications of fiscal decisions—from public works projects to overall spending caps—are a constant theme of the Truman directors' papers. For example, in September 1946, White House aide Raymond Zimmerman urged Webb to ride herd on "department and agency people in reducing costs and meeting personnel ceilings," and fast. "To get results which are needed by November we must get team-play results all the way up and down the line."[39] Likewise, many at the BoB liked the idea of pushing a balanced budget ahead of the election, but not just for fiscal reasons. As Assistant Director Lawton (a civil servant) wrote, "Merely to reduce expenditures and reduce a deficit would not be enough to capture public imagination and acclaim."[40]

Nor were Budget directors shy about contributing their own political advice. Webb wrote to Clifford in late 1946 suggesting a strategy Truman might

[38] See Webb's notes from 7 November 1946, Webb Papers, Box 3, [BoB: Conference Notes (private)], HSTL. Vinson had been the secretary, and Gardner the undersecretary, when Webb worked in the Treasury Department. For Rowe, see Rowe to Budget Director, "Testimony on 'Unification,'" undated. Webb files, Box 7, [BoB: Consultant James H. Rowe, Jan. 1947–Aug. 1948], HSTL. Webb claimed that the famous strategy memo regarding the 1948 election—see David McCullough, *Truman* (New York, Simon and Schuster, 1992), 590–592—originated from Rowe at Webb's instigation (Truman White House oral history, HSTL, 57f). Commentary from other people without access to Truman but whose political advice Webb respected—from Vannevar Bush to Louis Brownlow—also went through Webb to Clifford or other White House aides.

[39] R.R. Zimmerman to Webb, no title, 12 September 1946. Webb Papers, Box 15, [BoB: Federal Budget 1948 (Folder 2 of 2)], HSTL.

[40] F.J. Lawton to Director, "Meeting of the President with Agency Heads," memo of 17 September 1946. Webb Papers, Box 15, [BoB: Federal Budget 1948 (Folder 2 of 2)], HSTL.

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use to promote his foreign policy in ways that "would have a powerful appeal for large groups of individual voters who will become more important as the months go by."[41] Frank Pace (who had come to the BoB from the Post Office Department before succeeding Webb) was no less concerned for Truman's political needs. In an April 1949 staff meeting, Pace stressed "that he want[ed] the Bureau not only to continue to assist the President in solving problems, but also to provide some directional force for the President's program. He also urged continuing thought on matters concerning which the President might wish to consult with the 'Big Four' [the Congressional leadership]; and stated his continuing interest in reporting to the President with emphasis on indicating particular uses the President can make of such reports." Pace repeated these requests two weeks later.[42]

As a result of directives like this, political advice trickled up as much as it was handed down. For example, a 1947 memo urged that "the Administration should resume its offensive on the housing front. The public should feel that the Administration is constantly concerned and making an effort. The President at the earliest opportunity should take the initiative and restate his position . . . ." A follow-up attached "the kind of statement I had in mind," urging that it be fully explored "as to its political effect [and] workability."[43] In mid-1948, similarly, the head of the BoB's Fiscal Division presented his ideas on how to publicize midyear changes from the original budget, and on who was responsible for them.[44]

Summary

Assessing the BoB director's relationship to the President, Jim Webb put it this way: "I don't think you can separate the director of the Budget from the flavor of the President's needs in all areas including political needs."[45] Following the director's lead, it is clear that in the process of producing, refining, and promoting a presidential legislative program, and in providing advice to the President, the BoB was acutely sensitive to Truman's political interests. In this sense, the Bureau of the "golden age," especially in its legislative clearance process, was decidedly not "neutral," if that term is taken to mean "purely technical" or focused on policy issues without regard for Truman's political standing. Politici-

[41] Webb to Clifford, memo of 24 December 1946, no title, Clifford Files, Box 2, [Budget, Bureau of the], HSTL.

[42] See "4/7/49 Staff Meeting Items Check List" and "4/19/49 Staff Meeting Items Check List," both in the Lawton Papers, Box 3, [BoB–Staff Meetings], HSTL. By January 1950, Pace reported "President greatly pleased. . . . President's reliance on the Bureau constantly increasing."

[43] John B. Blandford, Jr., to Director, 22 September 1947, "Preliminary Suggestions on Housing"; Blandford to Director, 25 September 1947, "Housing." Both in Webb Papers, Box 17, [BoB: Housing], HSTL.

[44] J. Weldon Jones to Director, memo of 28 June 1948, "Outline for the Review of the 1949 Budget," Webb Papers, Box 16, [BoB: Federal Budget 1949 (folder 2 of 2)], HSTL.

[45] Truman White House oral history, HSTL, 56, 59.

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zation in this sense did not wait for the Nixon presidency. The BoB's archival records are replete with evidence that Truman-era Budget personnel were intricately involved in all manner of political decisions, often working hand in glove with the White House staff.

Indeed, by the middle of Truman's tenure, that connection was a structural one. When hired in 1948 as a legislative analyst in the BoB, for example, Neustadt's job description—as a civil service hire—specified that among his duties, he would have "primary responsibility for assisting . . . in developing the President's general legislative program" and "serv[e] as a general contact and coordinating point between the Bureau and White House staff on the review of legislative proposals . . . ."[46]

As this suggests, Webb consciously sought to use BoB personnel to backstop the White House staff. Charles Murphy recalled that Webb "co-opted" him into taking on BoB personnel as staff assistants:

> Jim then started, I think, figuring that . . . he might get things done better in the White House if he could sort of guide them. It wasn't long before I was getting pretty busy, and he offered—said I should have an assistant. And I said, "I don't need an assistant." Well he insisted that I needed an assistant and finally he said, "I'll give you anyone in the BoB that you want."

Murphy chose David Bell (who later served as Budget Director for President Kennedy). Budget staffers David Stowe and Russ Andrews went to work for presidential assistant John Steelman, the other power center in the Truman White House. And over time, a large number of career Bureau staff, from Legislative Reference and elsewhere, came to work at the White House proper.[47] The institutional and the personal staffs, it seemed, had become one.

The Personal and the Institutional Presidency

But had they? While it is tempting to see the Truman BoB as simply another arm of the President's personal staff, the roles of the BoB and the White House staff were crucially, if sometimes subtly, different. The Truman archives reveal that BoB personnel made a clear distinction between the partisan interests of a Democratic president and the institutional interests of the presidency. Protecting the latter was their primary focus. Thus, when Truman became president in 1945, Harold Smith had been budget director for six years and "some

[46] U.S. Civil Service Commission Position Description, 29 November 1948, provided by Richard Neustadt from his personal papers.

[47] Truman White House oral history, HSTL, 23–25; Murphy oral history of 3 June 1963, HSTL. The list includes at least Andrews, Bell, Harold Enarson, Ken Hechler, Milton Kayle, Neustadt, Stowe, and Sundquist. Hechler notes in his memoirs that Webb "appreciated that one of the best ways to gain support was to furnish able assistance" and "offer[ed] to detach any of his staff to help the White House whenever needed." Ken Hechler, *Working with Truman* (Columbia, University of Missouri Press, 1996), 160.

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of President Truman's own immediate advisers . . . felt that Smith had been so close to Roosevelt that he couldn't serve equally well for Mr. Truman," as Legislative Reference stalwart Roger Jones recalled. However,

> What they failed to understand was the Bureau's already highly and keenly developed sense of institutional responsibility to the Presidency, first to the office, and secondly but equally to the man who happened to be occupying the Presidency.[48]

Smith dealt with Roosevelt (and Truman) alone. Webb, by contrast, brought BoB career staffers to see the President, the better to ensure that the agency was clear on the President's substantive goals. At the same time, however, Webb maintained Smith's notion of dual responsibility by meeting with the President alone on political issues. That way, Webb noted, Truman "could tell me of a political problem he had without having to express it in front of these non-political staff people. Now, I was not going to get into the political business, but I needed to know his problems politically."[49] Neustadt's job description captured this distinction; among the qualifications listed for his position was "an ability to distinguish those issues for which the Budget Bureau or some other agency of government has the institutional or statutory responsibility for decision or recommendation, from those which require policy determination or resolution in political terms at the Presidential Level . . . ."[50]

The practical distinction between "not getting into the political business" while needing to know Truman's political concerns was, of course, a very fine one. The balance sometimes swayed; Roger Jones, for example, was "never . . . sure that Frank [Pace] really, well, appreciated the presidential-institutional relationship."[51] Nonetheless, it was a dividing line that most BoB and White House employees recognized, and it started with the President. Truman did not allow his White House staff to testify before Congress. "He simply said, 'The White House staff are mine. They are an extension of the Presidency, they are not available for testimony any more than the President of the United States.'"[52] BoB personnel, on the other hand, were expected to testify on behalf of the President, because they were not viewed as his personal staff—they worked for the presidency as an institution. "Mr. Truman," Jones noted, "wanted this place to be institutional, and we were."[53] As noted, Budget staffers were sometimes detailed to the White House for campaign speechwriting. Yet the formal act of detailing itself underscores the distinction between the staffs in the minds of those involved.

Again, this does not mean that BoB directors and personnel were nonpolitical, and certainly not that they were nonresponsive to Truman's interests as

[48] Roger Jones oral history, HSTL, 17.
[49] Truman White House oral history, HSTL, 3.
[50] U.S. Civil Service, Position Description, 4.
[51] Roger Jones oral history, HSTL, 87.
[52] Ibid., 72.
[53] Ibid., 67; see also Seidman oral history, HSTL, 30, 39–40.

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President. But they viewed those interests from a perspective divergent from the President's political advisers. That meant, for example, analyzing legislation in terms of its likely impact on the presidency. Thus, Smith advised Truman not to accept proposed legislation to unify the armed forces as drafted because of its likely impact on future occupants of the Oval Office. The bill "is presented as a means of relieving the President of work," Smith noted. "This it does—but by divesting the President of authority and responsibility which he cannot lose and still be president under our form of government."[54] Sometimes it meant keeping both President and presidency in mind: as Webb wrote Clifford on the same topic several years later, "I have been doing a little thinking about the issues in the present 'unification' bill and how they can be best resolved in the interest of maintaining the Constitutional and political position of the President . . . ."[55]

Similarly, BoB personnel sought to help the President interact with executive branch agencies and departments more effectively. Shortly after Truman took office, the Bureau grew concerned that departments were taking advantage of his newness to the job—FDR had done little to prepare him—and sought to rein in "uncorrelated action" and bureaucratic freelancing.[56] At the same time, BoB staffers were sensitive to the need not to appear overtly biased toward a particular policy outcome when mediating bureaucratic disputes. Roger Jones noted in 1950 that he feared "the consequences if the word gets around that the Budget is a stopping point on the lobby trail."[57] A similar sentiment underlay a warning by Neustadt to Staats during an administration debate over two conflicting declarations by Truman regarding the size of the fiscal 1949 budget request. Neustadt feared that the BoB was dangerously close to losing its reputation for impartiality. "Between these two statements of the President . . . is a great conceptual gap," he wrote:

> As a result it is entirely possible that the decisions made on the 1950 budget will not be acceptable to the agencies. . . . The Bureau will then be identified . . . as a leading participant on one side of a policy dispute which runs to the basic issues in a struggle for the "soul" of the Administration. If this eventuates, the Bureau as such will be hard put to play the role of a neutral Presidential staff concerned with presenting all aspects of the problem so that the President can make a sound and informed decision. Yet that is precisely the role which the Legislative Reference Division must play in exercising our coordination and clearance functions . . . .[58]

[54] Smith to Truman, "Organization of a Department of Common Defense," memo of 24 May 1945. President's Secretary's Files, Box 150, [Bureau of the Budget—Military, 1945–53], HSTL.

[55] Webb to Clifford, no title, Webb Papers, Box 8, [BoB: Clark Clifford], HSTL.

[56] See, for example, L.C. Martin to Director, "Budget Bureau Services to the President," 31 July 1945, RG 51, Entry 9B, Records Related to the Administrative Management of the BoB, 1939–52, Box 2, [B1-9 Relations with Other Units of the EOP], NA-II.

[57] Reported in Neustadt to Spingarn, "Miscellany on Executive Office Relationships," memo of 12 June 1950. Neustadt Papers, Box 1, [Chron. File, June 1950], HSTL.

[58] Neustadt to Staats, "The Administration Legislative Program and the Budget," memo of 22 November 1948. Neustadt Papers, Box 1, [Chron. Files, May–Dec. 1948], HSTL.

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Moving Past Either/Or

The "golden age" BoB clearly was responsive to Truman's political interests. As Heclo points out, because the agency (whether BoB or OMB) has no outside client, "Its choice is to be of use to the President of the day or to atrophy."[59] Under Truman, the BoB opted to be of use on his terms. Truman would have it no other way. As he warned Webb at their first private meeting, "Don't try to do my thinking for me. If I have the facts, I will make the decisions." Decisions were the very essence of Truman's conception of the presidency, and it is small wonder that he shaped his staff support to provide the advice he needed to make those decisions.[60]

At the same time, successive BoB directors, faced with potential competition from other staff agencies, worked diligently to make the BoB indispensable to the President's job. This meant forging a close working relationship with Truman's White House staff. And in doing so, it made what by any standard were "political" calculations. The BoB provided estimates of the salability—to Congress, to lobbies, and to the public—of various policy initiatives; it provided information and drafting assistance aimed at promoting the presidential position against hostile commentary or political opponents; it provided intelligence on the legislative process and worked to pass the President's program through Congress. As Eisenhower BoB official Robert Merriam observed in 1956, "The technical recommendations of the Budget Bureau are intended to stand on their objective merit. But . . . they will not amount to much if they are not carefully fitted into the basic political frame of reference in which the Presidency operates."[61] The Truman BoB passed this test.

At the same time, however, the Bureau did not serve as a political secretariat in the same way that the White House staff did. Its personnel were partisans not for a political party but for the President as that incumbent strove to maintain power in a system of separated institutions sharing power. The BoB was not responsible for making political decisions, even as it clarified the political stakes for Truman's own choices. As Neustadt noted in an internal memo:

[59] Heclo, "Office of Management and Budget," 88.

[60] Webb, "Notes to File," 15 August 1946, in Webb Papers, Box 3, [BoB: Conference Notes (personal), Oct. 1946–Jan. 1948], HSTL. On Truman and decisions, see Alonzo L. Hamby, *Man of the People* (New York, Oxford University Press, 1995), 313; Richard E. Neustadt, *Presidential Power and the Modern Presidents* (New York, Free Press, 1990), 144ff.

[61] Robert E. Merriam, "The Bureau of the Budget As Part of the President's Staff," *Annals of the American Academy of Political and Social Science* 307 (September 1956): 22. Tomkin relays remarkably similar functions for career personnel in the 1970s: "[OMB] analysis was described as projecting the potential effect of congressional and interest group reaction, the electoral reactions of key congressional members' constituencies, and the character of particular agency–congressional relationships on a proposal's chance for legislative enactment," including congressional head counts. Tomkin, *Inside OMB*, 65.

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> The Budget director and his immediate aides have consistently undertaken to identify these issues [political and power implications] in the course of the clearance operation, in order to clarify the scope of White House interest and the need for White House action. In addition, the Budget director as the President's agent has frequently been the channel whereby political and technical evaluations are brought together. But Budget Bureau action has rarely gone beyond this point.[62]

Similarly, in a lengthy memorandum to the BoB Director, Staats cautioned that "as an institutionalized part of the Executive Office and with continuing responsibilities, the Bureau should avoid 'front line' political contacts except where we can effectively do so for the President on matters directly flowing from the budget."[63]

Staats's "except" is important—but the fine line of the "front line" is important too, and successive BoB directors and personnel were quite aware of it. Although the line was sometimes crossed, the norm it represented stood nonetheless as an important constraint on BoB operations during this period. The Truman BoB was a presidential agency but, as in Heclo's description, it embodied partisanship that was able to shift with changing partisans. Not surprisingly, then, Truman's BoB staffers became Eisenhower staffers without any real difficulty, pushing the new President's concerns with as much fidelity as before.

Broader Implications

Our findings have important implications for the more recent debate between responsive and neutral competence advocates. The general thrust of the responsive-competence argument is, in our view, correct: presidential institutions tend to conform to presidential needs. A close look at the empirical record shows that Truman sought—and received—wide-ranging responsiveness from the BoB. However, those who argue that Truman's BoB embodied the virtues of neutral competence do not completely miss the mark. Presidential staff cannot be apolitical and remain competent; but they can render political advice without becoming political advocates. Neutral does not mean neutered.

During the BoB's "golden age," the agency did distinguish between the personal partisan needs of Truman and the interests of the presidency. At the same time, it recognized that these needs frequently overlapped.[64] In short, consistent

[62] Neustadt, "Proposed Memorandum on the Legislative Clearance Functions of the Bureau of the Budget," draft report of 7 July 1948, 5b–6b. Neustadt Papers, Box 10, [Subject Files, Addendum: Budget Policy and Legislative Program, 1948–49], HSTL.

[63] Staats to Director, "Organization and Management of the Bureau of the Budget," memo of 25 September 1947, 5–6. Lawton Papers, Box 3, [BoB: Organization, etc.], HSTL.

[64] Graham Wilson terms this a "higher form" of policy competence, linking substantive information on policy options to the likely outcome of each option and its prospective appeal to various relevant actors; his argument is described in Daniel E. Ponder, *Good Advice: Information and Policy Making in the White House* (College Station, Texas A&M Press, 2000), 23–25; Graham K. Wilson, "The Challenge to Neutral Competence: A Preface to a Panel," paper presented at the annual meeting of the American Political Science Association, Washington, DC, 1993.

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with Moe's logic—if not his recounting of history—it was responsive to Truman's political interests as he defined them in the period 1945–1953. Here, at least, Nixon's not the one.

In that case, though, why did Nixon and his successors feel compelled to politicize the BoB? A complete answer would require another extended historical case study, this time of the Nixon archives. However, Truman's experiences, combined with the literature on the 1970 reorganization and subsequent use of the OMB, suggests a potential answer. Simply put, Truman believed that government could help solve public problems, while Nixon and his Republican successors more often viewed government programs as a source of these problems.[65] The contrasting outlooks, we argue, go beyond philosophical differences. They are deeply rooted in the clashing strategic realities both presidents faced. First, except for 1947–1948, Truman's Democratic Party held a majority in Congress, and thus the legislative process was a more palatable option for making public policy. Further, the permanent government was predominantly staffed with New Deal careerists who shared a Democratic outlook. While Truman's own popularity dropped during the Korean War, public trust in government generally remained high. Hence the BoB, under Truman's prodding, developed a legislative clearance process through which it worked closely with departments and agencies.

Nixon's Republicans, by contrast, never controlled the House or the Senate, and he believed—not entirely without reason—that the permanent bureaucracy did not share his political goals. Nixon's experiences would not be unique; some form of "divided government" characterized presidential–congressional relations for twenty-two of the twenty-eight years following Nixon's 1974 resignation. Nixon's Republican successors shared his suspicion of the permanent government, at least to a degree. Public trust in government declined in the 1960s and 1970s, helped along by Nixon's own actions in Indochina and in the Watergate scandal.[66]

Moreover, the change to a political agenda dominated by budget deficits, deregulation, and government retrenchment beginning in the early 1970s altered presidents' administrative needs in ways that made the traditional qualities of neutral competence—continuity, professionalism, and the substantive analysis of policy—less important to presidents than the ability to exercise "top-down" budgeting and regulatory control. Whereas Truman sought to empower executive branch departments and agencies, the post-LBJ presidents wanted to control them. In short, the administrative interests of a Democratic president who sought legislative solutions to problems in housing, health insur-

[65] For similar arguments, see Rourke, "Responsiveness and Neutral Competence" and Wyszomirski, "De-Institutionalization of Presidential Staff Agencies."

[66] For survey data on bureaucratic attitudes, see Joel Aberbach and Bert A. Rockman, *In the Web of Politics: Three Decades of the Federal Executive* (Washington, DC, Brookings Institution, 2000). On public attitudes toward government, see Joseph S. Nye, Jr., Philip D. Zelikow, and David C. King, eds., *Why People Don't Trust Government* (Cambridge, MA, Harvard University Press, 1997), 79–84.

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ance, agriculture, foreign aid, and other areas differ significantly from those of predominantly Republican presidents intent on pursuing regulatory reform and covert foreign policies, and de-funding social programs. Within each time period, then, the BoB/OMB proved responsive to the president's needs—but the nature of those needs differed dramatically.

More generally, then, our findings are consistent with recent arguments that presidential staff requirements are contingent, shifting with political circumstances and informational dynamics.[67] Indeed, whether one touts responsive or neutral competence may depend on one's historical vantage: where one stands depends upon *when* one sits. By systematically exploring the types of staff responsiveness presidents have found useful over time, scholars can move beyond the "responsive"–"neutral" dichotomy to provide advice better tailored to a president's particular administrative needs.*

[67] Matthew J. Dickinson, *Bitter Harvest: FDR, Presidential Power, and the Growth of the Presidential Branch* (New York, Cambridge University Press, 1997); Ponder, *Good Advice*; Rudalevige, *Managing the President's Program.*

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Blacks on the Bench

NANCY SCHERER

It is well-documented that President Jimmy Carter was the first president to make significant inroads in diversifying the racial composition of the federal courts. Twelve years later, President William Clinton would continue the work begun by Carter by appointing sixty-two more African American federal court judges. Both Democratic presidents justified these efforts as necessary to provide minorities with descriptive and substantive representation on the federal bench, thereby increasing the federal courts' legitimacy in the eyes of black citizens.[1] The substantial increase in the number of blacks on the federal bench undoubtedly has provided African Americans with increased *descriptive* representation in the federal judiciary; clearly, there are more black judges. But, to date, scholars have been unable to establish that black judges provide increased *substantive* representation to minorities. Contrary to expectations, studies have *not* found that black and white judges adjudicate cases differently.

The reason for this failure, however, may be a function of flawed research designs. This study is a first attempt to correct for these methodological problems. Analyzing the voting behavior of judges in the United States Courts of Appeals in criminal search and seizure decisions, I conclude that black judges appear more willing than white judges to accept claims by criminal defendants of police misconduct. Thus, in certain classes of cases, race may, in fact, impact judicial decision making.

[1] William Clinton, "Judiciary Suffers Racial, Sexual Lack of Balance," *National Law Journal* 12 (November 1992): 15; Jesse J. Holland, "Clinton Appoints First Black to Southern Appellate Court," *Legal Intelligencer* 28 (December 2000); Elliot E. Slotnick, "Lowering the Bench or Raising it Higher: Affirmative Action and Judicial Selection During the Carter Administration," *Yale Law and Policy Review* 1 (1983): 270–306.

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The Normative Values for Diversifying the Federal Bench

There are two normative values commonly cited as support for diversifying the federal bench. First, building on the work of Hanna Pitkin,[2] black judges may be seen as *descriptive* "representatives," and black citizens living in that jurisdiction as the "constituents." According to this theory, the placement of black judges on the federal bench is vital because it sends a message to black citizens that they, too, have access to positions of influence.[3]

A second justification for implementing affirmative action to diversify the federal bench draws upon the work of Samuel Krislov.[4] Under Krislov's theory, it is critical to have black judges on the federal bench because they provide *substantive* representation of black perspectives in the federal courts. However, this concept of representation turns not on shared political ideology among blacks, but rather, on shared suffering of racial prejudice. In other words, a black judge will reach a decision based on life experiences unique to African Americans, and can articulate these experiences to his or her fellow judges when deciding a particular case.[5] As Justice Sandra Day O'Connor, the first woman on the Supreme Court, has written about Justice Thurgood Marshall, the first black person on the Supreme Court: "At oral arguments and conference meetings, in opinions and dissents, Justice Marshall imparted not only his legal acumen, but also his life experiences."[6] Similarly, Judge A. Leon Higginbotham, a former black federal appeals court judge, has noted that "lacking such [minority] outsiders, a court will be left with only its own self-perpetuating views, preferences and prejudices to inform its decisions."[7]

Although these two forms of representation may differ in means, they nevertheless seek the same end, namely, to increase the legitimacy of the federal courts as an institution. Concerns about how to maintain legitimacy are of particular importance with regard to the federal judiciary because, unlike the executive and legislative branches, federal judges cannot attain legitimization through the election process, inasmuch as they are appointed for life terms.[8] Prior studies relating to the election of black candidates seem to support this theory. For example, F. Glenn Abney and John D. Hutchinson found that the

[2] Hannah F. Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), 66–91.

[3] A. Leon Higginbotham, "Seeking Pluralism in Judicial Systems: The American Experience and the South African Challenge," *Duke Law Journal* 42 (1993): 1028–1068; Slotnick, "Lowering the Bench," 270; Carl Tobias, "Fostering Balance on the Federal Courts," *American University Law Review* 47 (1998): 935–961.

[4] Samuel Krislov, *Representataive Bureaucracy* (Englewood Cliffs, NJ: Prentice Hall, 1974).

[5] Sherrilyn A. Ifill, "Racial Diversity on the Bench: Beyond Role Models and Public Confidence," *Washington & Lee Law Review* 57 (2000): 405–495.

[6] Higginbotham, "Seeking Pluralism," 1034.

[7] Ibid., 1042.

[8] Gregory A. Caldeira and James L. Gibson, "The Etiology of Public Support for the Supreme Court," *American Journal of Political Science* 36 (1992): 635–664.

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TABLE 1

Number of Nontraditional Appointments

	Appointments, N (%)					
	U.S. Courts of Appeals			*U.S. District Courts*		
President	*Blacks*	*Hispanics*	*Women*	*Blacks*	*Hispanics*	*Women*
Johnson	2 (5.0)	0 (0.0)	1 (2.5)	5 (4.1)	3 (2.5)	2 (1.6)
Nixon	0 (0.0)	0 (0.0)	0 (0.0)	6 (3.4)	2 (1.1)	1 (0.6)
Carter	9 (16.1)	2 (3.6)	11 (19.6)	28 (13.9)	14 (6.9)	29 (14.4)
Reagan	1 (1.3)	1 (1.3)	4 (5.1)	6 (2.1)	14 (4.8)	24 (8.3)
Bush	2 (5.4)	1 (5.4)	7 (18.9)	10 (6.8)	6 (4.0)	29 (19.6)
Clinton	9 (14.5)	7 (11.3)	20 (32.2)	53 (17.4)	19 (6.2)	87 (28.5)

Source: Federal Judicial Center. www.fjc.gov.

election of a black mayor in Atlanta heightened levels of trust in government among the city's African American population.[9] In contrast, blacks' attitudes toward the Supreme Court are decidedly less positive than those of whites.[10]

It is indisputable that Carter and Clinton, by appointing substantial numbers of blacks to the lower federal courts, furthered the goal of descriptive representation of African American citizens. Although African Americans constitute approximately 12.3 percent of the total population in the United States, according to the 2000 census, 14.5 percent of Clinton's Court of Appeals appointees were African American, and 16.1 percent of his district appointees were African American (see Table 1).

Similarly, 17.4 percent of Carter's appellate court appointees were black, and 13.9 percent of his District Court appointees were black.[11] However, what remains elusive is whether diversification of the federal bench actually provides black citizens a unique voice on the federal bench, that is, *substantive* representation.

Assessing whether black judges provide substantive representation for black litigants is a two-step process: first, to determine what the views of black citizens are in a given area of law by looking at black public opinion polls; and second, to determine whether black judges vote in accordance with the views of black citizens; this will require an empirical analysis of black and white judicial voting behavior in the same issue area as the black public opinion polls.

Race, Crime, and Public Opinion

This paper will focus on one specific area of public opinion and law: crime. I chose this issue because of its particular salience among African American citi-

[9] F. Glenn Abney and John D. Hutchinson, Jr., "Race Representation and Trust: Changes in Attitudes After the Election of a Black Mayor," *Public Opinion Quarterly* 45 (1981): 91–101

[10] James L. Gibson and Gregory A. Caldeira, "Blacks and the United States Supreme Court: Models of Diffuse Support," *Journal of Politics* 54 (1992): 1120–1145.

[11] It should be noted, however, that certain jurisdictions continue to be under-represented by black judges (as compared to the total African American population in that jurisdiction).

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zens, particularly as it relates to the judicial system. It is well-documented that the "law and order" approach to criminal law enforcement—an approach initiated by President Richard M. Nixon and, with the exception of the Carter presidency, the approach that has dominated to the present—has had a disparate impact on the African American community, particularly on black men.[12] Indeed, today we see one-third of all black men in the United States under the supervision of the criminal justice system—under indictment, in prison, or on parole.[13]

Not surprisingly, this disparate impact on the black community has led blacks and whites to form quite different views about the criminal justice system, both substantively and procedurally. Studies in public opinion also confirm that this divide along racial lines has persisted since the Carter administration through the Clinton administration.

From a substantive perspective, prior studies analyzing black public opinion demonstrate that blacks are more "liberal" in criminal ideology,[14] are less supportive of punitive crime-control policies,[15] and are less supportive of the death penalty.[16] In terms of procedural encounters with law enforcement officials, public opinion studies show that African Americans are more critical of the use of deadly force by police,[17] hold less-favorable attitudes toward police officers, including their honesty and ethics,[18] have more fear that the police will stop and arrest them when they are innocent,[19] are less in favor of allowing po-

[12] Ifill, "Racial Diversity," 405; Randall Kennedy, *Race, Crime and the Law* (New York: Pantheon Books, 1997), 136–167.

[13] Alfred Blumstein, "Mass Incarceration: Perspectives on U.S. Imprisonment: Incarceration Trends," *Chicago Law School Roundtable* 7 (2000): 91–103; Paul Butler, "Affirmative Action and the Criminal Law," *Colorado Law Review* 68 (1997): 841–889.

[14] Sandra Lee Browning and Linqun Cao, "The Impact of Race on Criminal Justice Ideology," *Justice Quarterly* 9 (1992): 685–699.

[15] Alfred Blumstein and Jacqueline Cohen, "Sentencing of Convicted Offenders: An Analysis of the Public's View," *Law and Society Review* 14 (1980): 223–261.

[16] Robert M. Bohm, "American Death Penalty Opinion, 1936–1986," in Robert M. Bohm, ed., *The Death Penalty in America: Current Research* (Cincinnati, OH: Anderson Publishing Co., 1991); National Institute of Justice, *Sourcebook of Criminal Justice Statistics—2000* (Washington, DC: U.S. Government Printing Office, 2001), Table 2.60.

[17] Francis T. Cullen, Linqun Cao, Robert H. Langworthy, Sandra Lee Browning, Renee Kopache, and Thomas J. Stevenson, "Stop or I'll Shoot: Racial Differences in Support for Police Use of Deadly Force," *Sociological Quarterly* 32 (1996): 231–249.

[18] Linqun Cao and James Franks, "Race, Community Contest and Confidence in the Police," *American Journal of Police* 15 (1996): 3–22; Scott H. Decker, "Citizen Attitudes Toward the Police: A View of Past Findings and Suggestions for Future Policy," *Journal of Police Science and Administration* 9 (1981): 80–87; National Institute of Justice, *Sourcebook*, Tables 2.16, 2.25; Charles W. Peek, George D. Lowe, and Jon P. Alston, "Race and Attitudes Toward Local Police," *Journal of Black Studies* 11 (1981): 361–374.

[19] National Institute of Justice, *Sourcebook*, Table 2.30.

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lice to search homes without warrants and to conduct stop-and-frisk searches,[20] and perceive the criminal justice system as unfair.[21]

Race, Crime and Judicial Voting Behavior

For purposes of assessing whether black judges are more likely than white judges to question the legitimacy of police tactics in the conduct of search and seizures—just as black citizens are more likely than white citizens to question such tactics—it must be determined whether race has a causal effect on judicial voting behavior, holding all other sociopolitical variables constant. To the extent that black judges are more likely to find that police misconduct warrants suppression of incriminating evidence—and that such statistically significant impact is separate and apart from other sociopolitical causal effects, most notably political ideology—then we may conclude that black judges in the federal courts have a unique perspective on criminal law enforcement that turns on race in much the same way as that of average citizens. This, in turn, would suggest that Carter's and Clinton's efforts to increase racial diversity on the federal bench have furthered not only their goal of achieving increased descriptive representation but that of substantive representation as well.

In this part of the analysis, the article focuses on the judicial voting behavior of appointees of Presidents Jimmy Carter, Ronald Reagan, George H.W. Bush and Bill Clinton.

Hypotheses

Under the stewardship of Bill Clinton, the Democratic Party of the 1990s underwent a dramatic shift in its approach to criminal justice policy—an issue position which had come to define Democrats with the American public as the party of the ideological "left" for the previous thirty years.[22] Abandoning the Party's previous emphasis on the protections of a criminal defendant's civil liberties, Clinton simply co-opted the Republican Party's tough "law and order" agenda.[23]

[20] Adam Dobrin, Brian Wiersema, Colin Lofton, and David MacDowall, *Statistical Handbook on Violence in America* (Phoenix, AZ: Oryx Press, 1993), 321.

[21] Richard W. Brooks, "Fear and Fairness in the City: Criminal Enforcement and Perceptions of Fairness in Minority Communities," *University of Southern California Law Review* 73 (2000): 1219–1273; Martha L. Henderson, Francis T. Cullen, Linqun Cao, Sandra Lee Browning, and Renee Kopache, "The Impact of Race on Perceptions of Criminal Injustice," *Journal of Criminal Justice* 25 (1997): 447–462.

[22] Edward G. Carmines and James A. Stimson, *Issue Evolution: Race and the Transformation of American Politics* (Princeton, NJ: Princeton University Press, 1989).

[23] Harry A. Chernoff, Christopher M. Kelly, and John R. Kroger, "The Politics of Crime," *Harvard Journal on Legislation* 33 (1996): 527–579.

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This strategic political move to the right of the ideological spectrum on Clinton's part proved quite savvy. In short, since the 1970s, white voters have grown increasingly conservative on issues of crime.[24] Thus, experts agree that Clinton's "new" Democratic platform essentially brought many disaffected white, blue-collar, urban males back into the Democratic fold—the so-called "Reagan Democrats"—and ultimately propelled the Democratic Party back into the White House after Republican domination of the executive branch for the previous twenty-four years.[25]

However, there is one notable subconstituency of the Democratic Party whose approach to combating crime has *not* dramatically shifted: African Americans. Although white Democratic voters may embrace Clinton's "new" Democratic agenda, blacks remain firmly "old" Democrats,[26] particularly when it comes to issues relating to procedural justice.[27] And these views are also prevalent among black elites, including black attorneys—an important point for purposes of hypothesizing about the voting behavior of black federal court judges. In a 1999 national survey of lawyers conducted jointly by the American Bar Association and the National Bar Association, 50 percent of black attorneys stated that "very much" racial bias exists in the justice system (compared with 33 percent of whites reporting "very little" racial bias), and 66 percent of black attorneys stated that they had witnessed racial bias in the justice system, while 80 percent of whites claimed not to have witnessed racial bias in the justice system.[28]

The lack of a causal relationship between socioeconomic status and political ideology among African Americans is also contrary to what is observed among white voters, where increased income and education have been shown to be correlated with increased conservativeness. This contrary finding among African Americans is perhaps best explained in Michael Dawson's *Behind the Mule*.[29] There he demonstrates that African American political ideology is shaped by the individual's perception of "linked fate" with the black race as a whole, and that blacks' feelings of "linked fate" do not vary significantly across

[24] Thomas B. Edsall and Mary D. Edsall, *Chain Reaction: The Impact of Race, Rights and Taxes on American Politics* (New York: Norton, 1991), 99–115.

[25] Chernoff, Kelly, and Kroger, "Politics of Crime," 527.

[26] Louis Bolce, Gerald DeMaio, and Douglas Muzzio, "Blacks and the Republican Party: The 20 Percent Solution," *Political Science Quarterly* 107 (1992): 63–79.

[27] This is not to suggest, however, that blacks are more liberal than whites in all issue areas. To the contrary, prior research suggests that black Democrats are *more* conservative than white Democrats on issues such as abortion and school prayer. Michael Combs and Susan Welch, "Blacks, Whites and Attitudes Toward Abortion," *Public Opinion Quarterly* 46 (1982): 510–520; Philip E. Secret, James B. Johnson, and Susan Welch, "Racial Differences in Attitudes Toward the Supreme Court's Decision on Prayer in Public Schools," *Social Science Quarterly* 67 (1986): 877–885.

[28] American Bar Association, "American Bar Association Report on Perceptions of U.S. Justice System," *Albany Law Review* 62 (1999): 1307–1346.

[29] Michael C. Dawson, *Behind the Mule: Race and Class in African-American Politics* (Princeton, NJ: Princeton University Press, 1994).

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socioeconomic classes. Thus, for example, because highly educated African Americans are about as likely as high school–educated blacks to feel a "linked fate" with the black race, both educational groups are likely to share the same ideology. As Leslie Espinoza and Angela P. Harris have argued, "That well-to-do as well as poor black people are unable to catch taxis at night, are stopped by the police, and [may have] suffered from random racist violence has contributed to a sense of solidarity among all black people, based on the sense that color prejudice serves as a brutal leveler, erasing distinctions of class and status."[30]

Because blacks—and, critically, black elites—remain skeptical of the procedural fairness of the criminal justice system, while white elites, Democrats and Republicans alike, are more willing to embrace a "law and order" approach to criminal law enforcement, I would expect black and white judges to vote quite differently in criminal law cases. I would even expect black and white judges appointed by Clinton to vote differently, given this dichotomy in public opinion among Democratic elites. So why, then, have prior studies of judicial voting behavior shown no statistically significant difference between the decision making of black and white judges in criminal cases?[31] This is likely the result of four factors.

First, these studies all suffer from serious case selection problems. They look at criminal cases in the aggregate, rather than recognizing that certain types of criminal defense claims accord judges more discretion than other types of criminal claims. For example, two of these studies[32] include an unspecified number of habeas corpus petition cases. Because the controlling case law leaves little discretion to a judge to grant such petitions, it is not surprising that there is no difference in the voting behavior of black and white lower court judges in such cases. Accordingly, this study will focus on cases raising but one legal issue, and, critically, one subject to wide judicial discretion.

Further compounding this problem is the fact that three of the studies look at white judges sitting on the bench in the 1970s.[33] However, as discussed above, white Democratic elites of the Clinton era are significantly more conservative on crime issues than white elites of the 1970s. Thus, while black and white Clinton appointees are expected to exhibit significantly different voting behavior,

[30] Leslie Espinoza and Angela P. Harris, "Embracing the Tar-Baby: LatCrit Theory and the Sticky Mess of Race," *California Law Review* 85 (1997): 1585–1644.

[31] Jennifer A. Segal, "Representative Decision Making on the Federal Bench: Clinton's District Court Appointees, *Political Research Quarterly* 53 (2000): 137–150; Thomas M. Uhlman, "Black Elite Decision Making: The Case of Trial Judges," *American Journal of Political Science* 22 (1978): 884–895; Thomas G. Walker and Deborah J. Barrow, "The Diversification of the Federal Bench: Policy and Process Ramification," *Journal of Politics* 47 (1985): 596–617; Susan Welch, Michael Combs, and John Gruhl, "Do Black Judges Make a Difference?"*American Journal of Political Science* 32 (1988): 126–136.

[32] Segal, "Representative Decision Making," 137; Walker and Barrow, "Diversification," 595.

[33] Uhlman, "Black Elite Decision Making," 884; Walker and Barrow, "Diversification," 595; Welch, Combs, and Gruhl, "Do Black Judges," 126.

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black and white Carter appointees are expected to exhibit similarly "liberal" voting behavior in criminal cases.

There is one study in which the author claims to have found a difference between white and black appeals court judges appointed by Carter.[34] However, inasmuch as the author conducted no tests of statistical significance—and inasmuch as he looked only at cases in which dissents were lodged, which probably overstates the impact of race on voting behavior—I would view his results with some skepticism.

Third, none of these studies control for case facts. This is problematic because we know that different legal standards apply given different fact patterns in criminal cases. Moreover, prior studies have found that even jurists not bound by precedent (Supreme Court justices) vote differently given different fact patterns in criminal cases.[35] In contrast, this study employs a model that controls for all key facts; this ensures that judges' votes in different cases are applying the same controlling law and facts.

Finally, all of the prior studies looking at differences between black and white judicial votes involved analyses of voting behavior at the trial court level; perhaps this is because there are significantly more black trial court judges than appellate court judges, and thus, the total number of observations of black judges would be greater, focusing on this level of the justice system. However, using trial court decisions makes it virtually impossible for the researcher to determine which cases are "close" cases—that is, those subject to two diverse decisional paths given the same set of facts—and which cases are "routine" cases—those in which the lower court judge is left with only one reasonable decision given the facts and controlling case law. Accordingly, no attempts were made in these studies to isolate only "close" cases. As discussed below, however, limiting the analysis to "close" cases is essential when determining how ideology or race (as opposed to facts or law) guide a judge's decision (see Appendix).

Given the research design employed here, and given what we know about the difference between black and white perceptions of the criminal justice system—even among black and white elites—I will test the following hypothesis: (H1) African American judges are more likely to rule that a governmental search violated the Fourth Amendment rights of a criminal defendant than are white judges.

However, because black and white elites in the Democratic Party during the 1970s lay closer on the ideological spectrum than they do in today's political environment—the difference between "old" and "new" Democrats—a difference in voting between Carter's white and black appointees is not expected,

[34] Jon Gottschall, "Carter's Judicial Appointments: The Influence of Affirmative Action and Merit Selection on Voting on the U.S. Courts of Appeals," *Judicature* 67 (1983): 165–173.

[35] Jeffrey A. Segal, "Supreme Court Justices as Human Decision Makers: An Individual-Level Analysis of the Search and Seizure Cases," *Journal of Politics* 67 (1986): 938–955; Jeffrey A. Segal, "Predicting Supreme Court Cases Probabilistically: The Search and Seizure Cases, 1962–1981," *American Political Science Review* 78 (1983): 891–900.

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but such a difference is expected to be seen when comparing Clinton's white and black appointees. Accordingly, I also hypothesize that: (H2) There is no meaningful difference in the voting behavior of black and white judges appointed by Carter in cases in which the criminal defendant alleges that a governmental search violated his Fourth Amendment rights; and (H3) African American judges appointed by Clinton are more likely to rule that a governmental search violated the Fourth Amendment rights of a criminal defendant than are white judges appointed by Clinton.

White judges appointed in the 1970s under Carter—when "old" Democrats controlled the Party—are expected to vote differently than white judges appointed in the 1990s under Clinton—when "new" Democrats controlled the Party. I thus hypothesize that: (H4) White judges appointed by Carter are more likely to find that a governmental search violated the Fourth Amendment rights of a criminal defendant than are white judges appointed by Clinton.

In contrast, we have seen little change in public opinion among the black population at large between the 1970s and the 1990s. Therefore, black judges appointed by Carter are not expected to vote differently than black judges appointed by Clinton, inasmuch as both cohorts continue to share similar life experiences—namely racial isolation and prejudice—that may cause them to see the criminal justice system in a similar manner. Hence, my final hypothesis is that: (H5) There is no meaningful difference in the voting behavior of black Carter and black Clinton judges in cases in which the criminal defendant alleges that a governmental search violated his Fourth Amendment rights.[36]

Description of Models

For purposes of testing my hypotheses, three models were constructed. Model 1 includes only "close" cases, and the votes of Carter, Reagan, H. Bush, and Clinton appointees. Model 2 uses a rare events sampling technique,[37] and the votes of Carter, Reagan, H. Bush, and Clinton appointees. Model 3 includes only close cases, and the votes of Democratic-appointed judges only. Data and methodology issues are detailed in the Appendix.

All three models employ a number of control variables in addition to the central explanatory variable—the race of the judge. Control variables fall into one of two categories: background-based or fact-based. As the label suggests, background-based variables control for differences among judges' particular backgrounds; in combination, these are designed to measure judicial ideology. Fact-based variables control for differences among the facts of particular cases. It is necessary to control for both of these types of variables because in order

[36] Although I would have liked to have compared the voting behavior of black judicial appointees versus white appointees of Republican presidents, there were only six votes rendered by four black Republican judges—not enough to produce statistically meaningful results.

[37] As is explained in the Appendix, this sampling technique is designed to simulate a sample of all cases—close cases and routine cases.

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to isolate the effect of race on a judicial decision, I must parse out any potential causal effect that these background- or fact-based variables may have.

Explanation of Dependent and Independent Variables

The dependent variable is the *vote* of each individual judge, either agreeing or disagreeing with the criminal defendant that by virtue of the government's violation of his or her Fourth Amendment rights, incriminating evidence of the defendant's guilt must be suppressed.

Scholars have established that a variety of background factors may substantially influence a judge's voting behavior. Most notable is the judge's party affiliation or appointing presidential cohort.[38] In addition, studies have consistently shown that judges from the South are more "conservative" than are judges from other parts of the country;[39] others have accused the Ninth Circuit of being more liberal than the rest of the circuits. Age, however, is not considered, inasmuch as judicial voting behavior has been found to remain consistent over time.[40]

Although most scholars have focused singularly on establishing the effect of various sociopolitical background factors on judges' decision-making processes, a few political scientists have pursued a different line of inquiry; they have focused on whether certain common fact patterns in a given class of cases could predict the final decisions of particular judges.[41] For example, rather than asking whether Democratic-appointed jurists were more likely to vote in favor of a criminal's constitutional civil liberties, Jeffrey A. Segal explored to what extent different facts in "search and seizure" cases brought under the Fourth Amendment affected the likelihood that a Supreme Court justice would vote for or against the criminal defendant. Segal found that search and seizure decisions of the individual Supreme Court justices studied could be predicted with reasonable accuracy simply by knowing whether certain key facts were present in the given case. Today, however, judicial behaviorists have accepted that the

[38] David Adamany, "The Party Variable in Judges' Voting: Conceptual Notes and a Case Study," *American Political Science Review* 62 (1969): 57–73; Lee Epstein, Thomas G. Walker, and William J. Dixon, "The Supreme Court and Criminal Justice Disputes: A Neoinstitutional Perspective," *American Journal of Political Science* 33 (1989): 825–841; C. Neal Tate, "Personal Attribute Models of the Voting Behavior of United States Surpeme Court Justices: Liberalism in Civil Liberties and Economic Decisions," *American Political Science Review* 75 (1981): 355–367.

[39] Robert Carp and C.K. Rowland, *Policy Making and Politics in the Federal District Courts* (Knoxville: University of Tennessee Press, 1983); Donald Songer and Sue Davis, "The Impact of Party and Region on Voting Decisions in the United States Courts of Appeals, 1855–1986," *Western Political Quarterly* 43 (1989): 1855–1986.

[40] Jeffrey A. Segal and Harold J. Spaeth, *The Supreme Court and the Attitudinal Model* (New York: Cambridge University Press, 1993).

[41] James L. Gibson, "Judges' Role Orientations, Attitudes and Decisions: An Interactive Model," *American Political Science Review* 72 (1978): 911–922; Segal, "Supreme Court Justices," 938; Segal, "Predicting Supreme Court Cases," 891.

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best models for predicting judicial voting behavior are those that synthesize the sociopolitical background models with the fact-based models.[42] Accordingly, my models reflect this hybrid approach.

Fact-based Independent Variables

Place of the Search

This group of variables designates where the search or seizure took place. For each individual vote (for or against the defendant on the search and seizure issue), only one of the following places may be designated as the place of the search: home, business, person, automobile, and luggage. Based on well-settled Supreme Court doctrine, citizens have the greatest privacy interest in their homes, and citizens receive the greatest amount of Fourth Amendment protection (that is, generating the most prodefendant voting behavior) in their homes.[43] Accordingly, searches of homes will be used as the baseline against which all other places of the searches will be measured.

Presence of Warrant

This variable designates whether the search or seizure took place after a warrant had been issued. Because searches made pursuant to a warrant are presumptively reasonable under the Fourth Amendment,[44] citizens receive the highest amount of Fourth Amendment protection when searches are made without warrants.

Limited Search

This variable designates whether the search or seizure was of a limited nature or constituted a full-blown search. This is important because it determines the quantum of evidence required by the government to justify a search. Based on Supreme Court precedent, full-blown searches require a greater quantum of evidence (probable cause) than do limited searches such as pat-down frisks (reasonable suspicion).[45] Thus, defendants are expected to receive less protection under the Fourth Amendment when a limited search is conducted.[46]

[42] Tracey E. George and Lee Epstein, "On the Nature of Supreme Court Decision Making," *American Political Science Review* 86 (1991): 323–331.

[43] *Silverman v. United States*, 365 U.S. 505 (1961).

[44] *Coolidge v. New Hampshire*, 403 U.S. 443 (1971).

[45] *Terry v. Ohio*, 392 U.S. 1 (1968).

[46] These fact-based variables largely replicate Segal's model except as follows. Segal had a series of variables all designed to capture how many exceptions to the warrant requirement were present in a given case. The existence of such an exception is critical because it lessens the government's burden in justifying the search—either obviating the need for a warrant or lessening the quantum of evidence necessary to justify a warrantless search. Thus, to compare voting behavior across cases, a model should control for differences in burdens of proof. However, nothing in Supreme Court case law suggests that

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Border Searches

This variable designates whether the search or seizure took place at a border of the United States or was conducted by a border control agent. Persons searched at a border are expected to receive less Fourth Amendment protection than are persons searched elsewhere.

Background-based Independent Variables

Appointing President

There is a set of variables designating whether the judge is appointed by President Carter, Reagan, G.H.W. Bush, or Clinton. For each individual vote, only one president may be designated as the appointing president. Because Carter was more supportive of criminal defendants' civil liberty rights than any of the other presidents included in the analysis, Carter appointees are expected to be more supportive of criminal defendants than are the other presidential cohorts. And Carter appointees will be used as the baseline against which all other presidential cohorts will be measured.

Region

There is a set of variables designating in which geographic region of the country the judge rendering a given decision regularly sits on the bench. For each individual vote, only one of the following regions may be designated as the region from which the judge hails: southern, eastern, midwestern, Tenth Circuit, and Ninth Circuit.[47] Based on consistent findings of prior studies, southern judges are expected to render the most conservative voting behavior (that is, most anti–civil liberties protection), and the southern region will be used as the baseline against which all other regions will be measured.

Race and Ideology

Black Judge (Models 1 and 2 only). This variable designates whether the judge is African American. Because I am interested in race as an influence on judicial

multiple exceptions lessen the quantum of evidence any more than one exception does. Accordingly, my model seeks only to determine whether a lesser quantum of evidence was required by the court to justify the search. For purposes of parsimony, the model I use picks up differences in evidentiary burdens in three ways: by controlling for the place of the search; by capturing whether the search is full-blown or of a limited nature; and finally, by controlling for whether the search took place at a border, where even a lesser quantum of evidence (no suspicion) may justify a detention or search.

[47] I divide the western region into separate variables for the Ninth and Tenth Circuits. This is because the Ninth Circuit is generally deemed to be more liberal than all other circuits and thus, should not be aggregated with a more conservative circuit like the Tenth Circuit. In no other geographic region, however, is there reason to believe that voting patterns will differ by circuits.

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voting behavior above and beyond the ideology of the judge—and not as a direct measure of ideology — I include separate variables for race (whether the judge is white or black) and ideology (measured by appointing president and region). Black judges are expected to be more supportive of a criminal defendant's civil liberties than white judges.[48]

*Black * Carter (Model 3 only).* This variable is a product term reflecting the multiplication of the variable for Carter appointees by the variable for black appointees.

*Black * Clinton (Model 3 only).* This variable is a product term reflecting the multiplication of the variable for Carter appointees by the variable for black appointees.

*White * Carter (Model 3 only).* This variable is a product term reflecting the multiplication of the variable for Carter appointees by the variable for white appointees.

*White * Clinton (Model 3 only).* This variable is a product term reflecting the multiplication of the variable for Clinton appointees by the variable for white appointees.

Female Judge

This variable designates whether the judge is female. Female judges are expected to be more supportive of a criminal defendant's civil liberties than male judges.

Judge Sitting by Designation

This variable designates whether the judge is normally a district court judge who is sitting temporarily on the court of appeals.

RESULTS

Reported for each model is (Tables 2 through 4): the change in likelihood (measured by percentage points) of a vote to uphold the legality of a search (a vote that goes against the criminal defendant) given the presence versus the absence

[48] Although I would have liked to have controlled for the race of the defendant, this variable is omitted because it is never reported in the courts' opinions. However, because I have no reason to believe that any of the other variables are highly correlated with the race of the defendant, I do not believe this omission produces biased coefficients.

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of the variable.[49] For those variables measured against a baseline (that is, appointing president and region), we compare the likelihood of a vote to uphold the search in the presence of the variable compared to the baseline. The results for Model 1 are set forth in Table 2. Consistent with hypothesis 1, *there is a statistically significant difference in the voting behavior between black and white judges sitting on the federal bench.* This is the first time that any study has been able to reject the null hypothesis that there is no difference between the voting behavior of black and white federal court judges. Consistent with the findings of the American Bar Association in its survey of black and white lawyers,[50] white judges perceive allegations about police misconduct differently than do black judges and thus, black judges are more likely than are white judges to find that law enforcement officials have overstepped their authority in pursuit of a criminal defendant. Stated another way, black judges are much less likely to uphold the legality of a search or seizure in which there are allegations of misconduct by the police. Holding everything else constant, the probability that a black judge will uphold the legality of a search or seizure is eighteen percentage points less than a white judge. This is true even controlling for other sociopolitical variables, such as ideology (measured by appointing president), gender, and geographic background. And this is true even controlling for differing fact patterns among the cases heard by the courts of appeals. As expected, the improved data selection and model design used herein enable us to obtain a much different result than that previously found by other judicial scholars.

Some other notable findings in Model 1 deserve mention. As expected, Reagan and Bush appointees to the courts of appeals are much more likely to rule against a criminal defendant than are Carter and Clinton appointees to the appellate courts. Also as expected, southern judges are much more likely to rule against a criminal defendant in a search and seizure case than are judges from other parts of the country, and judges from the Ninth Circuit are least likely to rule against a criminal defendant in a search and seizure case. Finally, predictions on fact variables are largely as anticipated. We see that searches in homes are least likely to withstand legal challenge in the courts of appeals, and full-blown searches and warrantless searches are also less likely to be upheld.

Now, to demonstrate just how powerful an effect race has on the voting behavior of federal court judges in search and seizure cases, I have rerun the same model using the sampling method of Gary King and Langche Zeng applicable to rare events data (see Table 3).[51] As detailed in the Appendix, this sample of cases is not designed to include only "close" cases—as was done in Model 1. Rather, in this second model, I include a random sample of cases in which there

[49] The reader may contact the author for a full report of logit coefficients from these models. Also, it should be noted that the models contain some coefficients that were not statistically significant in order to satisfy the referees that a variety of different variables were explored.

[50] American Bar Association, "American Bar Association Report," 1307.

[51] Gary King and Langche Zeng, "Explaining Rare Events in International Relations," *International Organization* 55 (2001): 693–715.

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are unanimous affirmances of district court orders denying suppression motions ("routine" cases) in addition to all cases in which there was at least one vote rendered in favor of the criminal defendant (treated as a rare event). As King and Zeng counsel, I ensure that the ratio of nonrare events to rare events is 2 to 1. However, even when hundreds of votes from "routine" cases are added to the data, race continues to be a statistically significant predictor of voting behavior. In Model 2, holding everything else constant, the probability that a black judge will uphold the legality of a search and seizure is thirteen percentage points less than a white judge.

I turn now to hypotheses 2, 3, 4, and 5—which focus only on differences in voting patterns among Democratic appointees. The results from these logistic regression analyses are set forth in Table 4. Regarding hypothesis 2—that there is no meaningful difference in the voting behavior of Carter's white and black judges in search and seizure cases—Table 4 indicates that there is some support for this hypothesis. However, while the Black*Carter coefficient is not statistically significant at traditionally used levels of significance, it is significant at the $p = 0.128$ level. Moreover, the magnitude of the coefficient is relatively substantial: black Carter judges are 14 percentage points less likely to find a search or seizure legal than are white Carter judges. Thus, I hesitate to completely reject the null hypothesis in this instance.

Turning to hypothesis 3—that there is a statistically significant difference in the voting behavior of Clinton's white and black judges—I reran Model 3 using Black*Clinton judges as the baseline. Unlike the comparison between Carter's black and white judges, this model showed a statistically significant difference in voting between Clinton's white and black appointees, allowing me to squarely reject the null hypothesis. Holding everything else constant, black Clinton appointees are twenty percentage points less likely to uphold the legality of a search or seizure than are white Clinton appointees.

Consistent with hypothesis 4, there is a statistically significant difference in voting behavior between Carter's white appointees and Clinton's white appointees (see Table 4). Just as Clinton was more conservative on crime issues than was Carter, Clinton's white appointees are more conservative than are Carter's white appointees when ruling on search and seizure motions. Holding everything else constant, Clinton's white appointees are fourteen percentage points more likely to uphold a search or seizure than are Carter's white appointees. In sharp contrast, there is no statistically significant difference between black Clinton judges and black Carter judges. This is consistent with hypothesis 5—that there is no meaningful difference in the voting behavior of Carter's and Clinton's black appointees.

Conclusion

The results of this study lead to four important findings. First, black judges vote quite differently than do white judges in search and seizure cases. Like blacks

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nationwide, black judges are more likely to accept allegations that law enforcement officials may have engaged in misconduct in conducting criminal investigations; like whites nationwide, white judges are much more likely to find that the government's handling of criminal investigations did not go so far as to warrant the suppression of incriminating evidence. This finding also sheds light on an important political issue played out during the Clinton presidency. Specifically, Democratic leaders accused the Republican-led Senate of taking significantly longer to confirm African American judicial nominees than white judicial nominees, and they attributed this discrepancy to racist motives.[52] Republicans, in turn, argued that their opposition to many black judicial appointees was based strictly on ideology, and not on race. Oftentimes, Republicans specifically cited concerns about voting in criminal cases as the basis for their opposition. Because black judges lay further from the Republican Senate's preference point than did Clinton's white judges on a highly salient issue such as crime, it is rational that Republicans' opposition to Clinton's black judicial nominees was stronger than was their opposition to Clinton's white nominees.

Second, there is no statistically significant difference in decision making between Carter's black appointees and Clinton's black appointees. Just as the ideology of black elites and the black mass electorate remained consistently pro–civil liberties between the 1970s (when Carter was president) and the 1990s (when Clinton was president), so too has the voting behavior of black jurists.

Third, white Democratic judicial appointees appointed in the 1990s exhibit a more conservative voting pattern than do white Democratic appointees of the 1970s—at least in the area of criminal law enforcement. This finding is consistent with the political reality outside the courtroom. Just as Clinton moved the Democratic Party to the right on criminal law enforcement issues—the so-called "new" Democrat agenda—so too are Clinton's white judges more supportive of a "law and order" approach than are Carter's white appointees.

Finally, the failure of prior studies to detect differences in voting behavior between black and white judges would appear to be a function of flawed research design. By tailoring the analysis to "close" cases and to a legal issue in which lower court judges are given significant discretion in their decision-making power, statistically significant differences in voting behavior based on race may well result—and certainly did in the search and seizure area. This study is an important first step in truly understanding the relationship between race and judicial decision making.*

[52] See, for example, Mark Sandalow, "Clinton Blasts Senate Over Court Delays," *San Francisco Chronicle*, 7 October 1999, A3.

* The author wishes to thank the following people for their insightful comments in the preparation of this manuscript: Harold J. Spaeth, Wendy L. Martinek, Christine L. Nemacheck, Barbara Palmer, Jacob E. Gerson, Stacia Haynie, and Nancy Crowe.

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APPENDIX

Data and Methods

Included in this study are search and seizure decisions of the U.S. courts of appeals, including all of the eleven numbered circuits and the District of Columbia Circuit from 1 January 1994 through 31 December 2002. The units of analysis are each judge's vote (and not the ultimate holding of the case) rendered on a three-judge or *en banc* panel.

To determine whether there is a difference in ideology between black and white judges, it is essential that the analysis be limited to "close" cases. However, determining which cases are, in fact, "close" has been a vexing question for those who study voting behavior in the lower federal courts. This is because unlike the Supreme Court, which has the discretion to choose its docket—and, indeed, specifically chooses to hear only "close" cases it deems to be of national importance—the federal courts of appeals enjoy no such docket control. Rather, because all federal court litigants have one appeal as of right, the courts of appeals hear both close cases and what may be called "routine" cases. These cases—which constitute the vast majority of those heard by the courts of appeals—are taken so as to exhaust all possible legal avenues. This is especially true in criminal cases, where defendants are accorded free legal representation and, unless pleading guilty, will always appeal as a last resort to avoid prison. The reason that these cases are termed "routine" and not appropriate for analysis is because the judges in these cases have but one clear decisional path available to them. In other words, the case may be finally adjudicated—and full agreement reached by the appellate panel—without underlying political ideologies or racial differences playing a role in the decision-making process.

There is little doubt that when a dissent is lodged in an appellate case, such a case is not "routine"; clearly, with one judge reaching a different conclusion based on the same set of facts and law, there must, by definition, be two decisional paths open to the panel. That has led scholars in the field to focus only on cases in which dissents were lodged. But are all unanimous cases necessarily "routine" cases? Several studies have found that attitudinal variables such as ideology may impact the outcomes of a subset of unanimous appellate cases.[53] Songer found that ideology impacted outcomes in unanimous reversals but had no significant impact on unanimous affirmances. This makes sense, given that, as is true with nonunanimous cases, unanimous reversals suggest that there are two decisional paths available to the judges. In other words, one of four judges, hearing the same case with the same facts and controlling precedent, reached a different conclusion (similar to a nonunanimous appellate case in which one of three judges disagreed). Although some scholars continue to include only nonunanimous appellate cases as a proxy for "close" cases, I believe the better approach is to include all nonunanimous decisions (cases in which there is a dissent) *and* unanimous decisions reversing the district court. This will be my principal method of case selection.

There is also a practical reason for limiting analyses of voting behavior to close cases, rather than including all cases in studies of the courts of appeals. Given the tens of thousands of cases the appellate courts decide each year, compared with the 75–100 cases decided by the Supreme Court, analyzing all court of appeals cases—even in one issue area, such as search and seizure—is not feasible. A random sample of cases would be the better approach. Given that most search and seizure decisions at the appellate level are unanimous decisions denying a defendant's motion to suppress incriminating evidence, there is a sampling technique suggested by Gary King and Langche Zeng for use with rare events that is appropriate here. Treating a vote to suppress evidence

[53] Donald R. Songer, "Consequential and Non-Consequential Decisions in Unanimous Opinions of the United States Courts of Appeals," *American Journal of Political Science* 26 (1982): 225–239; Philip L. Dubois, "The Illusion of Judicial Consensus Revisited: Partisan Conflict on an Intermediate State Court of Appeals," *American Journal of Political Science* 32 (1988): 946–967.

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as a rare event, King and Zeng counsel that a statistically correct sample would include all cases in which votes were cast to suppress evidence, in addition to a sample of those cases in which no votes were cast to suppress evidence. Even this method, however, poses significant problems in data collection because one must first identify the entire universe of relevant cases; it is certainly more feasible than coding all cases.

To demonstrate how powerful the impact of race is in search and seizure cases, I also ran my principal model using the King and Zeng sampling method (see Table 3).[54] I treated a decision to suppress evidence as a "rare event." Accordingly, for the given time frame (1994–2002), I collected all appellate cases in which at least one vote was cast by the court of appeals to suppress evidence. The total number of votes for suppression was 805. I then identified all search and seizure cases in the relevant time frame in which there was a unanimous decision affirming the lower court's denial of the suppression motion. Since King and Zeng advise that routine events outnumber rare events by a ratio of two to one, I wanted to collect at least 1,600 votes against suppression. Given that there are normally three votes per case, I took a random sample of 550 routine cases, which eventually yielded 1,635 "routine" votes suitable for analysis. Inasmuch as racial differences were detected under this case selection method as well, there can be little doubt that, as expected, black judges do, indeed, view certain types of criminal cases in a different light than do white judges.

The cases comprising this study's data set were identified through a series of comprehensive searches on the electronic database WESTLAW. Included in the data set were decisions officially designated by the court for publication in the *Federal Reporter*, as well as decisions not designated by the court for official publication but reprinted in full on the WESTLAW database.

The decision of an individual judge in a search and seizure case was coded 1 if the judge found against the criminal defendant and 0 if the judge found in favor of the criminal defendant. All independent variables are coded 1 in the presence of the variable, and 0 in its absence.

[54] Gary King and Langche Zeng, "Explaining Rare Events in International Relations," *International Organization* 55 (2001): 693–715.

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TABLE 2

Model 1: Logit Results For the Likelihood of a Vote to Uphold the Legality of a Search or Seizure[a]

	Sign of Coefficient	*Δ Likelihood of Conservative Vote*
Constant	–	NA
Background-based Variables		
Black judge	–***	–18
Female judge	+**	8
Appointing presidential cohort		
Carter appointee	Baseline	0
Reagan appointee	+****	28
H. Bush appointee	+****	27
Clinton appointee	+****	13
Regional background of judge		
Southern judge	Baseline	0
Eastern judge	–*	–9
Midwestern judge	–	–6
Tenth Circuit	–	–5
Ninth Circuit	–****	–20
Judge sitting by designation	–	–3
Fact-based Variables		
Place of search		
Home	Baseline	0
Business	+	12
Person	+*	8
Car	+*	8
Luggage	+**	11
Presence of warrant	+****	22
Limited search	+***	8
Border search	+	5

Statistical significance = * $p \leq 0.10$; ** $p \leq 0.05$; *** $p \leq 0.01$; **** $p \leq 0.001$.

Total N = 1,545.

Likelihood ratio test (17 *df*) = 168.24; significant at 0.000.

Pseudo R^2 = 0.089.

[a] Measured as the change in likelihood of a conservative vote (one to uphold the search) given the presence of the variable as compared to its absence (assumed as a 50 percent likelihood). For example, a black judge will be less likely to uphold a search by 18 percentage points as compared to a white judge; a Reagan judge will be more likely to uphold a search by 28 percentage points compared to a Carter judge.

Source: All nonconsensual search and seizure decisions, U.S. Courts of Appeals, 1 January 1994–31 December 2002.

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TABLE 3

Model 2: Logit Results for the Likelihood of a Vote to Uphold the Legality of a Search or Seizure[a]

	Sign of Coefficient	*Δ Likelihood of Conservative Vote*[b]
Constant	−	NA
Background-based Variables		
Black judge	−***	−13
Female judge	+	2
Appointing presidential cohort		
Carter appointee	Baseline	0
Reagan appointee	+****	23
H. Bush appointee	+****	27
Clinton appointee	+****	11
Regional background of judge compared to southern judge		
Southern judge	Baseline	NA
Eastern judge	−**	−10
Midwestern judge	−	0
Tenth Circuit	+	0
Ninth Circuit	−****	−14
Judge sitting by designation	−	−2
Fact-based Variables		
Place of the search		
Home	Baseline	0
Business	−	−3
Person	+	5
Car	+***	9
Luggage	+	4
Presence of warrant	+****	15
Limited search	−	−1
Border search	−	−2

Statistical significance = * $p \leq 0.10$; ** $p \leq 0.05$; *** $p \leq 0.01$; **** $p \leq 0.001$.
Total N = 2,440.
Likelihood ratio test (17 *df*) = 188.20; significant at 0.000.
Pseudo R^2 = 0.064.

[a] King and Zeng Rare Events sampling method.

[b] Measured as the change in likelihood of a conservative vote (one to uphold the search) given the presence of the variable as compared to its absence (assumed as a 50 percent likelihood).

Source: All cases with votes to suppress evidence and random sample of cases unanimously affirming the district court decision not to suppress evidence, search and seizure decisions, U.S. Courts of Appeals, 1 January 1994–31 December 2002.

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TABLE 4

Model 3: Logit Results for the Likelihood of a Vote to Uphold the Legality of a Search or Seizure: Clinton and Carter Appointees Only

	Sign of Coefficient	*Δ Likelihood of Conservative Vote*[a]
Constant	−****	NA
Background-based Variables		
Appointing presidential cohort and race		
White Carter appointee	Baseline	0
Black Carter appointee	−	−14
White Clinton appointee	+****	14
Black Clinton appointee	−	−6
Female Judge	+***	12
Regional background of judge compared to southern judge		
Southern judge		
Baseline	NA	
Eastern judge	−	−9
Midwestern judge	−	−5
Tenth Circuit	−	−10
Ninth Circuit	−	−17
Judge sitting by designation	−	−1
Fact-based Variables		
Place of the search		
Home	Baseline	0
Business	+	16
Person	+**	13
Car	+	6
Luggage	+	10
Presence of warrant	+***	18
Limited search	+	6
Border search	+	3

Statistical signficance = * $p \leq 0.10$; ** $p \leq 0.05$; *** $p \leq 0.01$; **** $p \leq 0.001$.

Total N = 725.

Likelihood ratio test (16 *df*) = 50.34; significant at 0.000.

Pseudo $R^2 = 0.056$.

[a] Measured as the change in likelihood of a conservative vote (one to uphold the search) given the presence of the variable as compared to its absence (assumed as a 50 percent likelihood).

Source: All nonconsensual search and seizure decisions, U.S. Courts of Appeals, 1 January 1994–31 December 2002.

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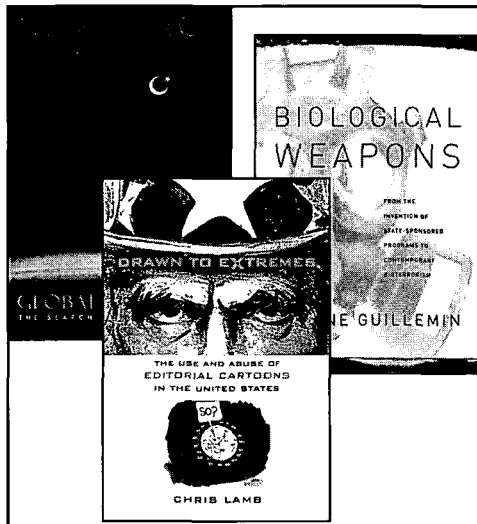

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Book Reviews

Hoodwinked: The Documents That Reveal How Bush Sold Us a War *by John Prados. New York, London, The New Press, 2004. 375 pp. $17.95.*

A Pretext for War: 9/11, Iraq, and the Abuse of America's Intelligence Agencies *by James Bamford. New York, Doubleday, 2004. 432 pp. $26.95.*

To everyone other than its hard-core supporters, the question for the George W. Bush administration is whether it was a knave or a fool in regard to Iraq's links to al Qaeda and its programs to develop weapons of mass destruction (WMD). Although much remains unknown both about what Iraq was doing and what the United States perceived, the question is so important that it has already generated not only media and congressional reports, but also semischolarly books such as those reviewed here. Both James Bamford and John Prados are well-respected, independent scholars of security and intelligence issues, but the former's study seems rushed and will have a short half-life, while the latter's will retain value for quite some time, despite the fact that it does not fully come to grips with some of the central questions.

A strength and a weakness of *Hoodwinked* is its combining—or fitting between—journalism and scholarship. It is more thorough and analytical than the former, but does not draw on relevant theories or test competing hypotheses, as does the latter. It also lacks footnotes, a serious deficiency. But the advantages are that the story flows so smoothly (and is written so well) that it can have a wide audience and that the material is so carefully handled that scholars can read it with benefit.

In Prados's account, once the Bush administration decided to overthrow Saddam Hussein (sometime in early 2002), it had to convince allies, Congress, and the public to go along. The obvious reasons to give were that Saddam was closely tied to terrorism and that his robust WMD programs meant that he could either intimidate his neighbors or transfer WMD to terrorists. At first, it appeared that relevant audiences would be easily persuaded. But as opposition developed in the summer of 2002, the Bush administration had to launch an all-out public relations campaign involving numerous speeches and the release of declassified intelligence estimates and culminating in Colin Powell's UN speech in February 2003.

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The heart of the book is an analysis of these documents and a paragraph-by-paragraph annotation of where and how they are misleading, if not mendacious. I do not think it is only because I agree with him that I find Prados's analysis almost wholly convincing and not at all polemical. He shows that official statements consistently went far beyond the existing evidence, relied on suspect sources (most infamously, defectors who came through Ahmad Chalabi's network), buried dissent, and ignored alternative explanations. Prados's analysis of Dick Cheney's postwar justification (pp. 322–328) is shooting fish in a barrel, but perhaps best is the dissection of Powell's UN speech (Chapter 6), which alone is worth the price of the book. Prados finds no fewer than thirty-five instances in which Powell was misleading, and this following the Secretary's strenuous efforts to examine the supporting evidence and present only that which he was confident was well-grounded.

It is clear from Prados's analysis that although some of the flaws could not have been detected by the media at the time, many others, such as the claim that the infamous aluminum tubes were well-designed for uranium separation, could have been. Because the Democrats raised few questions, however, the media found few controversies to report. One cannot read this book without feeling shame over the performance of the American political and public information system, nor can one avoid admiration for the great skill with which the Bush administration pursued its aims. The obvious policy question for the general public is how this foundation of intelligence and leadership can support a policy of preventive war in the future.

But should the book have been called *Fiasco* rather than *Hoodwinked*? That is, did the members of the Bush administration hoodwink us or themselves? Did they believe what they were saying? Obviously, different people may have believed different things, and without (I hope) sounding Clintonesque, I think the answer may turn on exactly what "believed" means. People have a great capacity for making themselves believe what is necessary for their political and psychological health and ignoring what is inconvenient. Prados generally implies, rather than argues, that the deception was conscious (occasionally [p. 327], he seems to think that officials were simply in error). Indeed, he rarely notes the alternatives. So as a work of scholarship, this book remains unsatisfying. But as a meticulous analysis of the flaws in the arguments the administration made to pull the country into war, it is of lasting value. It also raises, but does not answer, the central question of why Bush and his colleagues sought war if they did not believe that Saddam had serious WMD programs.

Like Prados, James Bamford sees Bush and his colleagues as knaves, although occasionally he, too, implies that they were merely ill-informed (p. 322). His treatment is broader, covering both the terrorist attacks of September 11 as well as the run-up to the war in Iraq. The book is also unfocused and repetitive, and indeed shares many of the analytical errors that he argues characterized the Bush administration. Although the subtitle of the book refers to "the abuse of America's intelligence agencies," Bamford is unclear about the extent to which he believes they were abusers themselves as well as having been abused.

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He does come closer than does Prados to answering the question of why the United States invaded Iraq, although he does not tackle it head on. The claim seems to be twofold. First, Bush came into office seeking to overthrow Saddam (chapter 10 and pp. 318–319). Although the reason for this obsession is not made clear, Bamford implies that it stemmed in large part from Saddam's attempt to assassinate the President's father (pp. 255–260). But the primary villain for Bamford is Israel and that country's ardent neoconservative supporters in the administration. This position is familiar, and although Bamford adds detail and color, his account is no more convincing than are others along these lines. He provides no evidence for his assertion that removing Saddam was "among the highest" Israeli objectives (p. 264), and, in fact, it is far from clear whether regime change in Iraq has made Israel more secure. Furthermore, the neoconservative supporters of the Israeli right wing, although certainly not without power in the U.S. government, were not at the highest levels, and Bamford does not explain how they converted Cheney, Condoleezza Rice, Donald Rumsfeld, and the President.

If Bamford's account, then, fails to convince us that September 11 was "a pretext for war," let alone one that was grounded in the desire to support the objectives of Ariel Sharon, the book still has virtues. The first hundred pages give a fast-paced, if somewhat choppy, account of the attacks of September 11 and what preceded them, although it has been largely superseded by the publication of the 9/11 Commission's report. More interesting is his critique of the culture of the intelligence community. Drawing on his earlier accounts of the National Security Agency, his discussion of the problems it faces in a world of new, digitized communications traveling through fiber-optic cables in multiple languages is hard to dispute. He does not spare the CIA either, arguing that its Directorate of Operations (DO) has grown excessively timid and bureaucratized and not only had failed to penetrate al Qaeda, but did not even make the attempt (pp. 156, 189, 191, 234). This argument is both important and plausible, but of necessity relies on interviews with disaffected DO operatives. They may well be right, but Bamford has to take their word for it.

Along the way, and especially in the first section, Bamford incorporates some marvelous tidbits: on the morning of 11 September, both incoming Chairman of the Joint Chiefs, General Richard Myers, and Senator Thomas Daschle proceeded with their meetings despite having learned that an attack was underway (pp. 38–39, 56); during the Cold War, the government established a special unit whose sole job was to extract the president and vice president from the rubble of the White House after a nuclear attack (p. 64); and on the morning of 11 September, Air Force One lacked reliable TV reception, which meant that the President knew less than did the general public (p. 83).

Overall, however, Bamford says little that is new and adopts a style of argument that is quite similar to the one employed by the Bush administration. Rather than presenting evidence on both—or all—sides and weighing alternative interpretations, he gives a brief for the prosecution. He cherry-picks the anecdotes that support his case (and there are many of them), and even those

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who agree with his conclusions will find his treatment of issues (such as the purposes of the aluminum tubes and the claim that Saddam tried to procure uranium from Africa) one-sided and without nuance, just as the Bush administration's treatment of them was. Similarly, much of his critique of the intelligence community parallels that of the neoconservatives he scorns (pp. 289, 292, 294). On the frontispiece, Bamford quotes Feodor Dostoyevsky as saying "While nothing is easier than to denounce the evildoer, nothing is more difficult than to understand him." Unfortunately, the book bears witness to the validity of this insight.

ROBERT JERVIS
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Soft Power: The Means to Success in World Politics *by Joseph S. Nye. New York, Public Affairs, 2004. 208 pp. $25.00.*

Joseph Nye has done his usual masterful job in this elegant monograph, describing the many sources of influence in international relations and reminding readers that excessive reliance on military or economic instruments of policy can often trigger backlashes that harm the nation's interests in the longer term. Nye points out that rather than either coercing others to share our objectives or buying their agreement with economic incentives, it is better for the United States to get what it wants because others share our goals. Soft power, he says, is more than influence or persuasion, "it is also the ability to attract, and attraction often leads to acquiescence" (p. 6).

Much of the book is devoted to descriptions of the sources of soft power in the United States and other countries, including the nation's values and the styles of individual behavior expressed in the dominant culture and transmitted through both commercial activities (Hollywood movies, for example) and personal contacts, and the nation's policies, particularly when they reflect values that are widely shared around the world. Thus, Nye argues, the United States won the Cold War in part because of the attractiveness of the American form of government and economy, and because American values, or American soft power, eventually came to dominate global perceptions of the two superpowers and induced others to want to share in our vision of the world.

Although Nye makes a persuasive case, in the end, the book is unsatisfying because of inherent limitations in the concept of soft power. It is a form of power, yes, but not an instrument of power that can be deployed in specific situations or even one that can be shaped in a meaningful way by the government. Soft power exists, and may be influenced by governmental choices, but it is more an existential factor in the policy environment than something policy makers can utilize to their advantage.

A nation's "attractiveness" to others is not a factor that can be exploited in any coherent way. Indeed, the chapter "Wielding Soft Power" is devoted solely to public diplomacy—the various means available to the government to communicate the nation's policies and values. But in our interdependent and

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interactive world, government-inspired communications of all types are only a tiny fraction of the information received by people around the world about the United States. Even if the United States spent a more reasonable amount on its public diplomacy than it does now, as Nye rightfully suggests, it's diplomacy would still be dwarfed by the private sources of information in the United States and abroad, and by the huge volume of interactions among citizens of all nations that take place independent of government actions or inactions.

Nye suggests that the current administration is squandering U.S. soft power by its unilateralist approach to world affairs, by its attacks on the United Nations and other international institutions, and by its rejection of such popular global initiatives as the Kyoto Protocol and the International Criminal Court; and he is correct. But the intractable problem is that necessary exercises of military or economic hard power often undermine a nation's soft power. This is nowhere more apparent than in U.S. relations with the Islamic world. Take Nye's Pakistan example. Describing President Pervez Musharraf's difficulty in helping the United States to pursue antiterrorist objectives in the face of a large anti-American constituency, Nye says, "If the United States were more attractive to the Pakistani populace, we would see more concessions in the mix" (p. 129). Of course, and if pigs had wings, they could fly. So what! Anti-American Pakistanis oppose our intervention in Afghanistan and support the Taliban and al Qaeda. U.S. soft power is meaningless in a context dominated by hard-power considerations.

Joe Nye is correct. Soft power contributes importantly to the nation's ability to achieve its goals in the world. But I don't think Professor Nye would disagree that soft power also has its limitations. U.S. attractiveness to others will never be shaped fundamentally by the government, nor can it be tapped for use in particular situations. Nor will soft power be a dominant consideration in situations in which there are real differences of interest and perspective. In these cases, harder forms of national strength will continue to dominate policy choices.

BARRY M. BLECHMAN
Henry L. Stimson Center

Surprise, Security, and the American Experience *by John Lewis Gaddis. Cambridge, MA, Harvard University Press, 2004. 160 pp. $18.95.*

How can one get really angry at Voltaire's Doctor Pangloss? His conviction that this was the best of all possible worlds may have been wrong-headed, but he was so cheerful and optimistic. John Lewis Gaddis is also cheerful and optimistic. *Surprise, Security, and the American Experience* began as the 2002 Joanna Jackson Goldman Memorial Lectures at the New York Public Library, and the book retains the chatty tone of a public lecture series. The chapters are organized around the three surprise attacks the United States has suffered in its history:

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24 August 1814, 7 December 1941, and 11 September 2001. John Quincy Adams, Franklin Delano Roosevelt and George W. Bush all responded to threats to national security by expanding the sphere of U.S. responsibility rather than withdrawing to safety "the way most animals" and "most other nations" are wont to do (p. 13). "Running and hiding," Gaddis is glad to observe, "has rarely been our habit" (p. 37). Security gained through expansion carried with it the danger of generating new insecurities, but three strategic principles, developed in the nineteenth century, worked to prevent such an outcome: preemption, unilateralism, and hegemony. What some critics have denounced as the radical turn of the Bush administration turns out to be as American as John Quincy Adams. To those who might question the bloody price exacted by continental expansion and hemispheric dominance, Gaddis does not respond with an argument but, quoting Samuel Flagg Bemis, asks a rhetorical question: "You wouldn't want to give it all back, would you?" (p. 32).

Franklin Delano Roosevelt and his successors held on to the hegemony, now global, but did so without unilateralism and preemption. In their place, multilateralism, containment, and deterrence. The only surprise in Gaddis's Cold War is how free it was of armed conflict. Gone the Korean War (but for a dependent clause), gone Vietnam (never mentioned), gone the direct and indirect military interventions that marked almost every year of the last half of the twentieth century.

And so finally we arrive at what I take to be the real point of these lectures, an assessment of George W. Bush's foreign policy. Gaddis is swept away by the boldness of the administration's response to September 11. He believes the world, too, has been amazed by "one of the most surprising transformations of an underrated national leader since Prince Hal became Henry V" (p. 82). Who could have imagined, he asks, that the United States would respond to the attack by conquering a country anyone would tell you could not be conquered, namely, Afghanistan; that the administration would next "undertake the most fundamental reassessment of American grand strategy in over half a century"; that, having failed to gain the approval of the UN or its allies, it would nevertheless attack and invade Iraq, defying predictions of high oil prices, an increase in terrorism, military resistance, frightening estimates of the human and material cost, "only to have none of these things happen" (pp. 81–82). Mindful that Afghanistan has not been conquered in any meaningful sense; that the Taliban has reemerged; that oil prices have gone way up, terrorism has increased, military resistance verging on chaos in Iraq persists, and the human and material costs of the war there continue to rise, one's tolerance for Dr. Pangloss begins to fray.

Gaddis's rendering of the 2002 National Security Strategy is in tune with this happy account of the U.S. response to September 11. His reading of the document may not ease the anxiety of those who find its assertion of absolute U.S. global dominance ominous. Indeed, Gaddis himself is not without anxiety as he contemplates the boldness of Bush administration policies. Having a grand strategy, he cautions, does not mean it will work. For example, the war in Iraq, undertaken in defiance of the UN and most of its allies, may have

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damaged the reputation of the United States as the principal stabilizing force in the international system. He worries too about whether spreading democracy is "the path to security [in the Middle East]" (p. 103). Is the "empire of liberty" really such a great idea in the twenty-first century? From the nineteenth through the twentieth century, the United States maintained an expanding but informal empire. Now the Bush administration "has called for yet another expansion of the empire of liberty: it can no longer respect the sovereignty of *any* state that harbors terrorists; it must preempt such threats wherever they appear; it will extend democracy everywhere." There is "more than a whiff of grandiosity about the insistence that one nation's security is coterminous with that of everyone else," he warns (p. 110). It is even possible, Gaddis suggests, that the precedent set by John Quincy Adams has created precisely the sort of government Adams most feared: one that "goes abroad in search of monsters to destroy." He counsels Americans to think "long, hard, and carefully . . . about where their empire of liberty is headed" (p. 111). Gaddis's own thoughts about this are brief and abstract. He sees NATO as a possible model for a federalist world (p. 113), but it is exceedingly difficult to imagine how one would get there from here, and Gaddis offers no guidance.

MARILYN B. YOUNG
New York University

The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States *by National Commission on Terrorist Attacks. New York, W.W. Norton & Company, 2004. 516 pp. Cloth, $25.95; paper, $10.00.*

It is difficult to read the 9/11 Commission Report because one has to fight the urge to throw the book across the room. Several hijackers set off airport metal detectors and were directed to secondary screening, which they passed easily. Videos of the screening process showed the crack security staff waving their metal-detecting wands over the hijackers, but never following protocol by identifying what had alerted their magnetometers in the first place. Several terrorists were selected by CAPPS (Computer Assisted Passenger Prescreening System) for special security screening, and one alert American Airlines employee became suspicious of two hijackers who were checking into Flight 77 (nonstop Pentagon) and designated them for special attention. The only consequence of this "special" status, however, was that the airline made sure the hijackers were in their first-class seats before their bags were loaded onto the "terrorist express," the early morning flight that al Qaeda knew had a high probability of leaving on time.

Most of the story told in this surprisingly well-written and riveting report has already entered public consciousness, although many of its details call into question conventional wisdom about what happened on September 11. Osama Bin Laden and his merry band of lunatics could be drawn from an Ian Fleming novel (Remember SPECTRE [Special Executor for Counter-Intelligence, Terrorism, Revenge, and Extortion]?) As a terrorist mastermind, Bin Laden was

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down on his luck when the Taliban allowed him to settle in Afghanistan, but his money and connections bought protection, courtesy of the half-witted and misogynist clique in Kabul. Bin Laden crafted a loosely organized terror network using the fanatics, misfits, ideas, and money that swirled around international terrorist circles in the 1990s. As the 9/11 commissioners concluded, the Bin Laden gang was not especially sophisticated, but their "tradecraft" was good enough to get the job done.

The intelligence community was slow to identify al Qaeda for what it was; after all, SPECTRE really was the stuff of novels. By the time Bill Clinton left office, intelligence analysts had developed an increasingly compelling and alarming picture of al Qaeda's international reach and its ambitions to wreak havoc in the United States. Rocked by scandal and afflicted by chronic hand-wringing—Attorney General Janet Reno repeatedly warned that al Qaeda might retaliate if attacked—the Clinton administration failed to translate its growing recognition of the threat into effective action. When George W. Bush arrived on the scene, his staff, who arrived in Washington with their own foreign policy agenda, seemed slow to recognize the looming threat. Terrorism was working its way to the top of the Bush administration's agenda in September 2001, but by that point, the boys from Saudi Arabia had already booked their flights.

Probably the most unexpected thing about the report is that it provides insight into the culture and decorum of contemporary Federal government in the United States. The individuals who populate the upper reaches of the executive branch are not exactly colorless people, but they are fundamentally cautious. They all seemed preoccupied with the legal and political downside of counterterrorism, and almost to a man and woman, were unwilling to look outside the box, let alone entertain some revolutionary effort to combat terrorism. Those who sounded the alarm actually seemed to hurt their own case for taking action, inasmuch as their colleagues reacted negatively to the emotional content of their warnings. The idea that an international Islamic terrorist syndicate was working to kill as many Americans as possible and that cells were already in the United States was not a novel idea in the summer of 2001, but to act on the idea in a serious way would have produced revolutionary consequences. For various reasons (all of them good ones at the time), no one except Bin Laden was willing to launch that revolution before September 11.

JAMES J. WIRTZ
Naval Postgraduate School

The Lesser Evil: Political Ethics in an Age of Terror *by Michael Ignatieff. Princeton, NJ, Princeton University Press, 2004. 160 pp. $22.95.*

In an important, courageous, and mostly successful work, Michael Ignatieff reassesses international political ethics—in particular, the ethics of war—in light of the unprecedented threat posed by terrorism, especially weapons of mass destruction (WMD) or other mass casualty terrorism.

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What can and should be done to meet this threat yet preserve the core values and constraints of democracy, Ignatieff asks. His central argument is that the war on terrorism will necessitate choosing lesser evils to avoid greater ones, by "chart[ing] a middle course" between America's traditional civil libertarian values and "a purely pragmatic position that judges antiterrorist measures solely by their effectiveness" (p. viii). With characteristic directness, Ignatieff argues that the necessary lesser evils, in some circumstances, must include various forms of violence, including targeted assassinations and even preventive war, as well as "coercion, deception, secrecy, and violation of rights" (p. vii). Yet, there must also be serious constraints and, to the maximum extent feasible, democratic controls on these measures: overall public disclosure and debate, congressional legislation, and judicial review.

Should regulated and controlled torture also be regarded as a lesser evil, especially if apparently necessary to avert WMD terrorist attacks? Ignatieff is firm on this matter: while "intensive interrogation" or even "coercion" or "nonphysical stress" (including such measures as sleep deprivation or isolation in complete darkness) may be necessary, outright torture must *never* be allowed, or "regulated, countenanced, or covertly accepted" (p. 143), for torture violates the "foundational commitments" of American democracy to "justice and dignity" (p. viii). Moreover, moral principles aside, torture doesn't work (people will tell their torturers anything they want to hear), and in the long run, torture is self-defeating, creating new terrorists and hardening them in their hostility.

These are, of course, strong arguments, but in my judgment, they are finally unpersuasive. Let us suppose that the authorities capture a terrorist leader or activist who has knowledge of an imminent plan to explode a nuclear weapon in New York City but who won't talk under "intensive interrogation" and "nonphysical stress," and time is running out. Under such circumstances, how could torture not be a lesser evil than a WMD attack on a city? For all practical purposes, such an attack would be an infinite evil, and to prevent an impending infinite evil, there can be no constraints on means.

Moreover, it is certainly not the case that torture never "works," for there is unmistakable historical evidence that torture often does elicit important and verifiable information. (To be sure, historically, torture has usually been employed on behalf of evil, not to prevent it; that, however, is a different issue, and it is not relevant to the kind of situations that Ignatieff is considering.) Furthermore, if a WMD attack on a city can be prevented, the possible long-run consequences of the use of torture are not only uncertain but irrelevant; it is not merely (in Keynes' famous aphorism) that in the long run we'll all be dead—in the *short* run we'll all be dead.

None of this, of course, is to deny that both the moral and practical consequences of allowing torture could be fearful. However, if in some cases the alternative is much worse, it does argue for something that Ignatieff specifically rejects—some kind of democratic or judicial control over torture, along the

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lines suggested by, among others, Alan Dershowitz: prior "torture warrants" (in which judicial authorities would decide whether the evidence warranted the use of torture), ongoing review and controls, severe punishment of the use of unauthorized torture, etc.

Ask yourself these questions: Suppose the authorities capture a terrorist with knowledge of an impending WMD attack; indeed, for that matter, suppose the authorities had captured one of the World Trade Center terrorists a day or two before September 11. Would you want torture to be used under these circumstances if all else failed? Or, regardless of your personal conclusion, would you expect that the authorities would indeed resort to torture? If you answer yes to either of these questions, the only real choice is between regulated or unregulated, controlled or uncontrolled torture.

JEROME M. SLATER
State University of New York at Buffalo

The Choice: Global Domination or Global Leadership *by Zbigniew Brzezinski. New York, Basic Books, 2004. 256 pp. $25.00.*

In his new book, Zbigniew Brzezinski provides a literate, penetrating *tour d'horizon. The Choice* is in part vintage Brzezinski: creaming the material, focusing on power, weighing the application of force, evaluating major actors (states), and advancing a fundamental belief in the necessity and normative influence of U.S. participation in fashioning and monitoring world order. Blended into this is a consideration infused with subtlety, replete with references to AIDS, poverty, fanaticism, environmental degradation, and population issues, and characterized by the observation that for the foreseeable future, global insecurity will be our reality. Aspects of "soft power" have increasingly come to be incorporated into his analytical framework, as have other features of our international environment, such as the increased salience of science and technology and the effects of globalism.

Few terms in recent memory have become part of our common currency as swiftly, and been as polarizing here and abroad, as "globalization." Brzezinski disassembles the fuzzy buzzword, sorting out its "contradictory implications" (p. 139), and distinguishing among meanings and purposes. He writes that the term has been used to convey "an allegedly objective diagnosis of world conditions," to capture "doctrinal preference," to "precipitate a counter-creed . . . that rejects that preference," and to engender a "political-cultural critique designed to alter the existing power hierarchy" (p. 140). Globalism is cast as a synonym for Americanism, a neutral term scoured of the connotations that encumber "hegemon" and "imperial," for example. As a concept reflecting our pragmatism, objective to the extent that economics and information technology are measurable, and seemingly benign and inevitable, it holds a special appeal for this country's political, economic, and business elite. For others "globalism equals homogenization" (p. 155), a mix of American culture, technology, and

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values that serves to engender opposition in poor as well as in wealthy nations. Whether this powerful motif translates into assaults on globalism being anti-Americanism, as a counter-symbol and counter-creed, is an idea that warrants further consideration.

By now, Brzezinski's penchant for identifying future trends and anticipating attributes has a track record. During the height of the Cold War, he envisioned the collapse of the Soviet Union under the sheer weight of impending ethnic and nationalities' burdens, *inter alia*. *Between Two Ages* (1970) anticipated what he termed the emerging "technetronic" or information era. *The Grand Chessboard* (1997) revisited Halford John MacKinder and should have prepared us for the turmoil at the southern extremities of the Eurasian landmass. On this basis alone, *The Choice* cannot but be taken seriously, and Brzezinski doesn't pull any punches. At the very outset, he asks, "Hegemony for the sake of what?" (p. x). He then proceeds to list over a dozen policy issues for which "a strategically comprehensive response" (p. x) is required and asserts that this new effort "is partially predictive and partially prescriptive" (p. xi). Indeed it is.

The Choice draws upon existing empirical evidence—this is a work of reflection—to provide a context for the complexity impinging upon the substance and conduct of U.S. foreign policy. The book is divided into five chapters, which take up the "dilemmas of national insecurity," "the new global disorder," "alliance management," "globalization," and "hegemonic democracy" (pp. v–vi). If Brzezinski remains one of the two primary influences on Condoleezza Rice's *Weltanschauung*, as she has previously allowed (the other being Hans Morgenthau), then he has provided her with an inclusive and nuanced vision of the disparate issues she needs to juggle, together with a strategic blueprint for action.

The image not easily dispelled is of the author peering down upon a large map of the world (not a chessboard, this time around), assessing and shuffling future capabilities about, highlighting geographical areas, and flagging issues to connote impending significance that U.S. statecraft had best not ignore. It is this expansive vision from the mountaintop—blurring detail and broad strokes—that is simultaneously appealing and bound to generate the most criticism. Once Brzezinski's ambitious framework is accepted, all flanks are protected by the seamless logic of his analysis and the careful reasoning of his conclusions. The distinction between global domination and global leadership, while not altogether clear-cut, is one that needs to be made, and Brzezinski has done so persuasively.

RICHARD STORATZ
Columbia University

The Politics of Executive Privilege *by Louis Fisher. Durham, NC, Carolina Academic Press, 2003. 288 pp. $42.00.*

The question of the constitutionality of executive privilege claims became a hot-button issue during the latter years of the Richard M. Nixon presidency, precipitating a political crisis that led first to the Supreme Court's ruling in *Nixon v. United States* and then to President Nixon's forced resignation. As

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one by-product of the crisis, journalists and academics began to research the historical background of presidential efforts to withhold information from Congress. Their purpose was to understand the scope and legitimacy of the conflicting claims of presidents, members of Congress, and congressional committees. In a sense, Louis Fisher's *The Politics of Executive Privilege* can be considered the most recent addition to this literature. The Senior Specialist in separation of powers of the Library of Congress's Congressional Research Service, Fisher has both published extensively and testified before Congress on the issue of executive–legislative conflicts over access to information. His tightly reasoned, nuanced, and thoroughly researched monograph, however, shifts the focus of this debate. Fisher's masterful historical survey offers new insights and explores relatively unexamined cases wherein executive officials unsuccessfully sought to withhold information demanded by congressional committees. He both challenges exaggerated presidential claims and makes a compelling case for congressional oversight. In a series of thematic chapters, he explores how this conflict played out historically, citing numerous examples of executive officials ultimately agreeing, reversing an earlier constitutional claim, to honor congressional requests for specific records. He looks at Congress's ability to effect this reversal whether exercising subpoena, appointment, or impeachment powers; pursuing GAO investigations; commanding the testimony of White House aides; threatening contempt citations; or reviewing presidential foreign policy claims. At base, this history, Fisher posits in his introduction, requires an understanding of the "political settlements that decide most information disputes" (p. xv); thus, the aptness of his title, "the politics of executive privilege."

Fisher's impressive contribution serves to shift the focus of the debate over executive–legislative powers from the question of the constitutional boundaries between the executive and legislative branches to the specific circumstances and contexts influencing presidential withholding claims. He critically dissects the tortured reasoning underpinning specific rulings of Supreme Court justices (*Curtiss-Wright*, Watergate Tapes, Ameron, Pentagon Papers) and, more importantly, examines in depth numerous examples of executive–legislative conflict over information that did not reach the courts, primarily because of presidential acquiescence or compromise (Algerine and Jay treaties; Iran-Contra; Richard Kleindienst, William Rehnquist, the L. Patrick Gray III nomination; the Travelgate, Ashland, Inslaw, and FBI corruption in Boston affairs; and the David Mathews, Henry Kissinger, and Anne Gorsuch contempt citations). His thoroughly researched survey lends support for his concluding assessment: "Political understandings and settlements have kept executive–legislative conflicts over information to a manageable level. Legal and constitutional principles serve as guides, but no more than that. Attempts to announce precise boundaries between the two branches, indicating when Congress can and cannot have information, are not realistic or even desirable" (p. 259).

ATHAN THEOHARIS
Marquette University

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Islam Without Fear: Egypt and the New Islamists *by Raymond William Baker. Cambridge, MA, Harvard University Press, 2003. 304 pp. $29.95.*

Few Western observers know Egypt as well as does Raymond Baker. In *Islam Without Fear: Egypt and the New Islamists*, Baker has produced another outstanding study of Egyptian politics and society. The book's relevance goes far beyond Egypt, however, and should be required reading for anyone interested in political Islam. Baker writes about a small but influential group of Egyptian intellectuals who put forward an interpretation of Islam based on moderation, tolerance, human rights, progress, reason, and science. Baker calls them the New Islamists, and they include six prominent Egyptian intellectuals and writers: Kamal Abul Magd (an international legal expert and law professor at Cairo University and the Vice President of the recently established National Council for Human Rights), the late Shaikh Muhammad al-Ghazzaly (one of the leading Islamic scholars of the twentieth century), Fahmy Huwaidy (a weekly columnist for *Al-Ahram*, Cairo's largest circulating daily), Yusuf al-Qaradawy (a prominent Islamic scholar and a professor at the University of Qatar), Tareq al-Bishry (a highly respected Egyptian jurist and historian), and Muhammad Selim al-Awa (a professor of law at Zagazig University and a distinguished Egyptian intellectual). Together, this group of thinkers has articulated a distinctive *Wassatteyya* (middle, moderate) Islam. These Islamist intellectuals are progressive thinkers who embrace science and reason, are forward-looking in regard to issues of gender and religious minorities, and are open to genuine dialogue. The New Islamists champion ideas of transparency, accountability, good governance, and democracy and have consistently condemned political violence committed in the name of Islam.

Baker's account of the New Islamists and their ideas comes in the course of the book's three main sections on culture, society, and politics. In separate chapters on education, the arts, community, economics, politics, and regional and international issues, Baker analyzes the New Islamists's positions on the most important issues facing Egyptian society and, by extension, much of the Muslim world. For example, Baker chronicles the New Islamists's interventions in the culture wars that ravaged Egypt in the 1990s. In the cases of Naguib Mahfouz (the Nobel Prize–winning Egyptian novelist) and Nasr Hamid Abu Zayd (the Egyptian academic who was labeled an apostate and forced to flee the country), the New Islamists came out in defense of freedom of expression, even when they disagreed with the substance of what was being expressed. By meticulously analyzing their writings, acutely observing their interventions in national, regional, and international debates, and closely following the Egyptian press, Baker details the positions of this group of intellectuals on issues ranging from the role of women in society to the place of non-Muslims in the political community, Egyptian politics, the Palestinian–Israeli conflict, American foreign policy, and globalization.

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The book's primary shortcoming is the insufficient attention Baker pays to the criticisms that many secular and liberal Egyptian critics level at the New Islamists. Secular critics, for example, argue that even the most progressive political Islam is ultimately incapable of producing a political system based on political equality for all, Muslims and non-Muslims alike. Other critics might also point out the illiberal views occasionally expressed on issues such as sexual freedom and orientation by some of the New Islamists, Yusuf al-Qaradawy, for example. Of course, those already biased against political Islam will not be swayed by this or any book on the subject, even one as thoughtful and rigorously argued as Baker's. In *Islam Without Fear*, however, Baker has produced a masterly work on the possibilities of political Islam and a much-needed corrective to the dominant view that Islam and politics can only produce authoritarianism, violence, and fear.

SAMER SHEHATA
Georgetown University

The First War on Terrorism: Counter-Terrorism Policy During the Reagan Administration *by David C. Wills. Lanham, MD, Rowman & Littlefield Publishers, Inc., 2004. 304 pp. Cloth, $80.00; paper, $27.95.*

During the Democratic Party's 2004 nominating convention in Boston, one of the many talking heads on television lashed out at former President Jimmy Carter's record on terrorism. Nobody could ever forget the humiliating sight of the blindfolded Americans in Iran, he said. This remark typified the propaganda that partisan spin doctors have sold and a majority of Americans have bought for nearly twenty-five years: Democrats are soft and Republicans are tough on terrorism. In the aftermath of the Oklahoma City bombing in 1995, four of five Americans approved of President Bill Clinton's handling of the crisis. Yet, at the same time, far more Americans continued to believe that Republicans, whether as presidents or members of Congress, would generally do a better job of dealing with terrorism than would Democrats. This public sentiment expressed the widely held belief that President Reagan, unlike his predecessor, was tough on terrorists, as he had promised to be during the 1980 presidential campaign. The fact is, of course, that none of the fifty-two American captives in Tehran lost their lives, while hundreds of Americans were killed by terrorists during President Reagan's two terms. More important, Reagan's fiery rhetoric and his promise of "swift and effective retribution" against terrorists did not match his administration's actual counterterrorist policy. Although criticizing the Carter administration for negotiating the release of the Iran hostages, the Reagan administration repeatedly violated its own policies of not giving in to terrorist demands and not negotiating with terrorists.

In his thoroughly researched, skillfully analyzed, and well-written volume, David C. Wills sets the counterterrorism record of the Reagan presidency straight,

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lays out the decision-making processes in the Reagan administration, and dissects the different belief systems and the power plays of top-level actors. However, by limiting his case studies to the 1983 bombing of the Marine barracks in Beirut, the 1985 TWA Flight 847 hijacking, the 1985 *Achille Lauro* incident, and the terror strikes (the Rome and Vienna airport attacks and the La Belle disco bombing) leading up to the 1986 U.S. bombing of Libyan targets, Wills leaves out full accounts of two major cases: the Lebanon hostages and the Reagan White House's most controversial response to terrorism, the arms-for-hostages deal with Iran; and the 1988 bombing of Pan Am Flight 103 at the end of Reagan's second term, the presentation of which would have required discussion of Reagan's and George H.W. Bush's "do nothing" response.

Unlike the hawkish Secretary of State, George Shultz, President Reagan, Secretary of Defense Caspar Weinberger, and the Joint Chiefs of Staff understood the risk involved in military retaliation and preemption—harming and maiming innocent civilians. As a result, Reagan okayed only two minor military responses to terrorism—the interception of an Egyptian plane carrying the *Achille Lauro* terrorists, and the bombing of Tripoli and Benghazi.

Contrary to the author's recommendations, which call for "actions that must match rhetoric" and for an "enforcer in the administration" (p. 223) who, presumably, would have overruled the Pentagon's reluctance to use military force, in hindsight, the multiple advocacy decision-making style of the Reagan White House looks awfully good compared to the everybody-must-fall-in-line consensus that produced the current administration's responses to the predominant terrorist threat before and after September 11.

As the author points out, for Reagan's Secretary of Defense, an act of terrorism was a crime—not warfare. To be sure, terrorism in the early twenty-first century differs significantly from terrorism in the 1980s. But Weinberger's insistence "that the standard of proof for any U.S. response should be courtroom quality, with the ability to prove beyond any reasonable doubt who was responsible for the attack" (p. 30) is as sensible today as it was then. The "first war on terrorism" was never fought; and with the beyond-reasonable-doubt litmus test applied, the post–September 11 "war on terrorism" would have been fought differently.

BRIGITTE L. NACOS
Columbia University

Stormy Weather: The New Hampshire Primary and Presidential Politics
by Dante J. Scala. New York, Palgrave, 2003. 224 pp. $29.95.

New Hampshire has occupied a special place in presidential nomination politics for as long as most of us can remember. It has gone from being a test of strength for presidential contenders to a giver of strength via the phenomenon of momentum. Although the nature of the contest has changed somewhat in

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the overall scheme, the primacy of the New Hampshire primary remains. For this reason, casual observers and reformers alike often question why the New Hampshire primary occupies a first-in-the-nation status. Academics may question its true impact. After all, in contemporary times, many candidates who have gone on to win the nomination of the party had not first won the New Hampshire primary. So has it really mattered? How critical has the impact of New Hampshire's primary been to the nomination process? What is its future role, given the vastly changing landscape of presidential nomination campaigns? Dante Scala addresses these questions systematically in his book.

In very clear language, Scala gives an overview of the process of presidential nominations from its early days to its modern manifestations. This is critical to the rest of the analysis because it sets up the context in which the New Hampshire primary takes place, specifically, the New Hampshire Democratic Party's primary. Scala illuminates the role that party organizations play in the process and how the nature of the party electorate has an impact on the dynamics of the primary itself. Stark differences between the state and local organizations of the Republican and Democratic Parties and their activists lead to differences in the nature of their primaries, particularly how dynamic (or perhaps chaotic) they become.

The metaphor of stormy weather is utilized to describe the emergence of a competitor in New Hampshire who gathers enough strength to challenge the front-runner. In a relatively small, grassroots-oriented state, a candidate can create a storm by campaigning effectively and generating support. This candidate is often an insurgent, a reformer, a party dark horse giving chase to the (generally) establishment front-runner. This does not always happen, but it has happened frequently enough that it wants explanation, particularly inasmuch as these changes affect the subsequent nomination process and oft times the nature of the general election as well. Scala details the instances in which such storms have occurred, and their impact.

Scala's main contribution to the academic literature in this area is his focus on explanation. Why do certain candidates create the storm, whereas others are not able to do so? The explanation hinges on the interaction between the type of candidate running in the Democratic Party and the nature of the primary electorate and the subsequent nature of voting outcome. Certain candidates have greater appeal to elites, while others may attract a more working-class–oriented following. Some candidates may work hard to put together a coalition that includes both segments of the Democratic electorate. A candidate can create a storm and win in New Hampshire by virtue of generating a great deal of support from only one group, but this may not bode well for future success.

Although set in the context of the New Hampshire primary, Scala's ideas and measures may have general application. The interaction of candidates and party electorates, particularly activists, in any state, is an important phenomenon to examine and may be helpful to an understanding of "storms" in general. There are practical implications for campaign strategy. A candidate's skill at

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crafting a message that can appeal to the factions or constituencies that matter in a state, particularly in New Hampshire—inasmuch as it has a special role in the process of presidential nomination campaigns—is worthy of attention. Scala's work contributes to an area that is just beginning to emerge in the scholarly literature—the use of message, and marketing to the primary electorate.

AUDREY A. HAYNES
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The Financiers of Congressional Elections: Investors, Ideologues, and Intimates *by Peter Francia, Paul S. Herrnson, John C. Green, Lynda W. Powell, and Clyde Wilcox. New York, Columbia University Press, 2003. 216 pp. Cloth, $59.50; paper, $22.50.*

Relying on the popular media, one could conclude that campaign contributors clearly influence legislation and buy political access or, more neutrally, seek to participate in the democratic process. Assumptions and anecdotes aside, however, such conclusions remain speculative. We just do not know why most contributors open their checkbooks.

The Financiers of Congressional Elections provides some useful, if preliminary, answers to a host of questions about who contributes, and why, to political campaigns. Armed with some basic questions and data from a 1996 national survey of significant (more than $200) donors, Peter Francia, Paul Herrnson, John Green, Lynda Powell, and Clyde Wilcox have produced measured descriptions of an understudied class of important political activists. Unfortunately, reliance on eight-year-old data does limit the value of the book, especially in an era of enhanced Internet solicitations and contributions. Still, as its subtitle asserts, the authors do unearth a mix of basic motives (investment, ideology, and intimacy) for donating, motives that roughly correspond to the driving forces behind much other political participation, such as joining interest groups.

Those who make $200-plus contributions represent a narrow socioeconomic slice of the American population; they are predominantly white, middle-aged professionals and businessmen. More women did give in 1996 than in 1978, but their participation still lags considerably. At the same time, donors associate themselves with a wide range of groups and interests, and their upper-class economic homogeneity is thus offset by diverse social views. Although they see contributing as a legitimate form of political expression (p. 141), more than three-quarters of the donors think that the campaign finance system needs to be either replaced or changed (p. 144). In that they are regularly, even relentlessly, solicited, contributors understand better than almost anyone the potential for abuse in a system that relies so heavily on establishing financial ties between donors and officeholders.

The funding of congressional elections can best be understood, the authors argue, as a series of exchanges. Potential contributors are solicited. Their names

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become part of major donor lists and further solicitations, from both the original candidate and others. At some point, donors may well request something from the legislators whom they have supported.

The authors offer a valuable chapter on the solicitation process, one that describes how candidates' basic lists evolve from a combination of personal requests of friends, cold calls, and fund-raising events. Funding a congressional campaign combines activities that are simultaneously highly professional and highly personal. The book effectively captures how donors are targeted, but it fails to develop a complete picture of the solicitation process. Although the importance of "talking to strangers" is noted (p. 78), what receives short shrift is a candidate's willingness to make call after call, which may well define the seriousness of his or her campaign. With only a few exceptions, most candidates would rather do anything except "dial for dollars"; yet they must, given their status as their campaign's most effective fund-raiser.

In addition, because most contributions go to incumbent legislators, the solicitation–donation exchange represents a continuing relationship, which brings into focus the issue of what contributors receive, if anything, for their major donations. Most notably, those who give enjoy personal access to lawmakers and their staffs (pp. 138–139). Do donations lead to such access? Are donors treated more favorably than others? These are questions left unanswered. More the pity, but this slender volume surely fulfills its initial promise by offering scholars and citizens alike a clear view of those who finance the election—and reelection—of the legislative class.

BURDETT A. LOOMIS
University of Kansas

The Strategic Use of Referendums: Power, Legitimacy, and Democracy
by Mark Clarence Walker. New York, Palgrave, 2003. 156 pp. $49.95.

This relatively short book examines how and under what circumstances various types of referendums have been used in the past half century, examining the nexus between political power and popular legitimacy. The main argument is that although referendums are ostensibly a democratic mechanism, in practice they are an elite tool, a "two-person, zero-sum" game between executives and legislatures; the people, in this formulation, are "left out" (p. 2). As such, the book "is not just about referendums but about the distribution of power, the role of legitimacy, and the nature of democracy" (p. 2).

The core of the analysis is outlined early. A referendum is defined as "a submission of a proposed public measure or actual statute to a direct popular vote" (p. 1). Referendums in nondemocracies, democracies, and countries in transition are examined. All referendums are, according to the author, "part of a bargaining process between elites who have their basis of power in different institutional settings" (p. 3), and the ultimate objective in proposing a referen-

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dum is to gain popular legitimacy. In nondemocracies, legitimacy is the end in itself; referendums are used to garner and bolster popular support. In transitions and democracies, referendums are typically a struggle between two relatively equally powerful institutions. These propositions are evaluated in the light of data presented on referendums in France, Chile, the Soviet Union, and Russia, in chapters 2, 3, and 4.

Three types of referendums are examined. In an autonomy referendum, the leadership of a region or political subunit is attempting to alter the center–region relationship. Examples included are Algeria and France, the various republics of the former Soviet Union, or the Crimea and Russia. The second type of referendum is constitutional and proposes changing the fundamental rules of the regime, typically the balance of power between the executive and the legislature. Examples include the 1962 French referendum to elect the president by popular vote or the ratification of the new Russian Constitution in 1993. A final type of referendum centers around policy, usually fundamental policy direction, such as the 1993 referendum on President Boris Yeltsin's economic reforms in Russia.

Another main aspect of referendum politics, according to the author, is that "executives can better position themselves than legislatures along a policy spectrum to win when introducing referendums" (p. 3). This notion leads to two hypotheses: first, that executives "should propose a greater number of referendums than legislatures," and second, that they "should win a greater number of referendums than legislatures" (p. 3). These hypotheses are tested in chapter 5 using the cases of Kyrgyzstan, Ukraine, and the Crimea (qualitatively), then with a "Large-N Data Set" drawing on all referendums in post-Soviet states from 1990 to 1997 (quantitatively, with 152 cases).

The development of the book is a bit uneven and the writing sometimes awkward. After reading the analysis, I am left wondering why only passing reference was made to the experience of the fifty American states that have provisions for legislative referendums. Granted, few political scientists cross the American-Comparative boundary, but there is a wealth of data on the American case. In fact, at a basic level, the criteria used for selecting the cases presented in the book are left unclear. Despite that, the book is a useful addition to the transitions-to-democracy literature.

Although Mark Clarence Walker suggests that the use of referendums may be contrary to democratic theory, in one sense their use might auger well for democracy. The use of sometimes arcane constitutional procedures for resolving conflict (referendums, impeachment) between political actors is a positive development in countries that formerly resolved conflict by force or the threat of force.

JODY BAUMGARTNER
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Same-Sex Marriage and the Constitution *by Evan Gerstmann. New York, Cambridge University Press, 2003. 240 pp. Cloth, $55.20; paper, $22.00.*

Evan Gerstmann's latest book makes an eloquent case for ending discrimination on the basis of sexual orientation in access to the right to marriage. Gerstmann's style is a powerful one. His prose is lucid, and his passionate commitment to justice is manifest. Intellectually, his style is remarkably even-handed. Gerstmann has no patience for tortured arguments made in support of indefensible positions by advocates on either side of the same-sex marriage debate. Rather, he subjects these arguments to withering critiques in which he is at times unable to conceal his disgust for what he views as intellectual dishonesty.

Readers familiar with Gerstmann's earlier book, *The Constitutional Underclass: Gays, Lesbians, and the Failure of Class-Based Equal Protection*, will recall his conclusion that class-based equal protection does not work and that a rights-based jurisprudence is preferable because it can be both more effective and intellectually far more honest. In *Same-Sex Marriage and the Constitution*, he argues that "we must leave behind the debate over 'gay rights' and move on to the far more productive and illuminating question of what legal rights all people in America share. . ." (pp. 3–4). His argument, most simply put, is "that the Constitution has, does, and should protect everyone's fundamental right to marry the person of his or her choice does not require gays and lesbians to ask for 'special' rights or protections. . . . It allows them to frame their arguments in terms of equality instead of difference, in terms of aspiration instead of victimhood. . . . Gays and lesbians are asking for nothing more than [the] freedom to marry the person they love, regardless of what anyone thinks" (p. 110). Of course, this is nothing more than what heterosexuals long have granted to themselves. While this may be highly controversial to some, I find Gerstmann's arguments totally persuasive on this point.

Indeed, Gerstmann goes so far as to argue that "the term 'gay rights' is . . . counterproductive and misleading" (p. 127) because it implies that gays and lesbians are seeking rights that others do not have and thus plays into the hands of their opponents, who claim that they support "equal rights and not special rights." Advocates for the gay community should find it imperative to reframe the argument in terms of equal access to the fundamental right of marriage. Fortunately, Gerstmann's scholarship makes a very strong case for arguing that the right to marriage is a primary right that has been recognized in American constitutional jurisprudence since the founding. In this discussion, he also tackles the "slippery slope" contentions that ending discrimination with regard to the right to marry opens the door to incest and polygamy. In a fascinating discussion, Gerstmann argues that this is not the case but that we must reconsider the rationales for maintaining the bans on incest and polygamy.

After a discussion of whether the Court should create new rights and of how to identify fundamental rights that should be of general interest to students of constitutional law and of the judiciary, Gerstmann returns in a concluding

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section to discuss questions of democracy, neutrality, and consistency of principle and to place his work in the context of the debate over minimalism and of whether effective judicial intervention to end unequal access to rights is merely a hollow hope. As one might expect, Gerstmann is very optimistic about the chances of successful judicial intervention to enable same-sex marriage.

Scholars who tackle pressing contemporary issues always take the risk that events will overcome their work. Gerstmann notes in his preface that *Lawrence v. Texas* was decided only a few days before the book went to press. He notes that this decision supports the central arguments of the book. In fact, I can only find one case in which there is a tension between Gerstmann's analysis and the *Lawrence* decision. He argues, "Society can oppose homosexuality as a moral matter without engaging in unconstitutional animus" (p. 38). I fail to see how this can be the case if states no longer can criminalize adult consensual sodomy. Although Gerstmann's argument is that this can be a rational basis for a same-sex marriage ban, I think that even this thin reed of support for a rational defense of discrimination in the right to marry falls.

More seriously, since the book's publication, Massachusetts's highest court has found that discrimination in the right to marry violates the state's constitution. At the time of the book's publication, I shared the optimism that Gerstmann expresses in his final chapter. I never expected many of the following events: that a national administration, facing a difficult reelection campaign, would seek to divert attention from a troubled economy and a deeply contested war policy by engaging in demagogic attacks on "activist judges" and by suggesting that same-sex marriage was a great threat to the nation; that many states would move quickly to amend their constitutions to define marriage as being between one man and one woman; that a similar amendment to the U.S. Constitution would fall only two votes short of a majority in the Senate; that the House would pass a bill to prevent the federal courts from making decisions about the constitutionality of the Defense of Marriage Act; that the Democratic Party's candidates for president and vice president of the United States would support these amendments to state constitutions; and that in Ohio and Virginia, legislation would be passed to strip same-sex couples of rights they had previously held.

I am not as optimistic as I once was, but reading Evan Gerstmann's book bolsters my hope that someday justice will come to same-sex couples.

KENNETH SHERRILL
Hunter College–CUNY

Beyond Comparison: Sex and Discrimination *by Timothy Macklem. New York, Cambridge University Press, 2003. 232 pp. Cloth, $65.00; paper, $26.00.*

In Timothy Macklem's ideal possible world, no form of discrimination would disadvantage any individual in the pursuit of the good of a life that is successful

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in her own eyes, one that is valuable and congruent with what it means to be the person she is, and one that does not involve misconceptions of her abilities or qualities that otherwise would hinder her. *Beyond Comparison: Sex and Discrimination* articulates why explanations of gender discrimination commonly run aground on the vexing question of whether to emphasize gender equality or difference, and reveals the implications of taking a stand on the basis of one or the other, as representative feminist theorists Catherine MacKinnon and Drucilla Cornell mistakenly do. In the light of a pluralist notion that men and women are both alike and different, Macklem contests the boon of equality as it has been pursued, as well as the understandings of gender difference that while on point in noting differences, inaccurately apprehend them. In his view, a better course to chart would be to focus on individuals, whether male or female, and on what they require in the pursuit of their life projects, and then on whether anyone, first taken individually, is disadvantaged to a degree warranting our concern.

This new treatment of the issue of disadvantage based in gender is deeply interrogative, sticks to its line of reasoning, and presents an intricate argument. Yet, despite the logician's precision and clarity that Macklem brings to the topic and to his rejection of the essentialist and social constructionist positions, the reader never finds out just what he means by "womanhood," "what it means to be a woman," or the "capacities that are sex-specific" (p. 199). These notions are insufficiently fleshed out, yet are identified throughout the work as crucial to the argument because disadvantage can only turn on a clear understanding of them, and because the critical analysis of the gender equality versus difference issue rests on them. Macklem suggests that antidiscrimination law is misguided because it blurs the difference between the sexes, yet his discussion fails to elaborate on any distinctive, nonphysical difference and instead asserts an unarticulated, deep divide between the qualities that define men and those that define women. Macklem holds that there is a truth to being a woman, which is lived by each woman in her own way, a truth that may have relevance in its sociocultural framework, within which there may be value to its realization.

Macklem usefully distinguishes disadvantage from discrimination, suggesting that the former is not systemic, but rather, is an individual experience that results from a woman's frustration with failing to achieve success in her life's project primarily because it and/or her character is not consonant with "what it means to be a woman." The concept of "disadvantage" cannot be used in assessing women vis-a-vis men because individuals and their life projects are incommensurable, and this concept is relative to the individual in question, whose successful pursuit of life involves that person's character (which may or may not be suited) and what it means to be that person (either a man or a woman), its relevance as given by its sociocultural context (which may or may not value it, make it possible, have room for it, or regard it as relevant), and "what goodness requires" (p. 138), referring to the moral worthiness of the qualities and activities involved in the aforementioned context.

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Ultimate blame for disadvantage based in gender rests on a "misconception of what it means to be a woman" that results in denying to women "access to the value of their own qualities" (p. 166), and on attributing to women negative characteristics that they do not have or failing to recognize the positive qualities they do possess but are not allowed to act upon.

GORDON A. BABST
Chapman University

White-Washing Race: The Myth of a Color-Blind Society *by Michael K. Brown, Martin Carnoy, Elliot Currie, Troy Duster, David B. Oppenheimer, and Marjorie M. Shult. Berkeley, University of California Press, 2003. 360 pp. $27.50.*

Forty years after the civil rights revolution, what explains persistent African American disadvantage in educational attainment, rates of home ownership, and access to good health care and well-paying jobs? In escaping neighborhoods and prisons that are riddled with violence, crime, and drug abuse? Adequately answering these questions might seem very hard to do in one book. But this remarkably cogent volume pulls that task off—and in the process, it both characterizes and denounces leading neoconservative ideas about these disturbing questions.

Criticizing neoconservative analysis is, in fact, the key to this book's verve and sweep. One neoconservative strand that the authors dislike is the view of liberalism that frames color-conscious policies as a form of group privilege. Another strand is "realistic," that is, it's time to make "tough love" policy that promotes personal responsibility. Yet another strand of the neoconservative reaction to the civil rights revolution blames civil rights policies themselves for perpetuating black disadvantage. Survey research shows that whites are no longer racist, this view says, so government ought to stop signalling that there is a problem, get out of the way, and let blacks and whites work out successful relations on their own.

One of this book's primary accomplishments is how well it connects these various strands of thought and their policy relevance. Its forceful critique identifies a wide range of conceptual contradictions and empirical deficiencies in neoconservative analysis and policy prescription concerning black poverty, crime and incarceration, educational attainment, and voting rights.

The authors also try to do more than criticize, suggesting stronger policies—much better public education, for example—and supplying what they consider an alternative, historical-structural explanation for black disadvantage. The civil rights policies of the 1960s and 1970s were, for one thing, only a start. The different aspects of black disadvantage also cumulate, exhibiting powerful complementarities (in the technical sense that might be used by an economist). Finally, apparently color-blind interactions between black citizens and government,

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particularly in the criminal justice system, tend to push African Americans (especially young black men) into educational, social, and political isolation from the mainstream. One of the book's subtler points is its sketch of how racially regulatory government actually is in, for instance, criminal justice and corrections, often in ways that may be perverse.

Many readers, however, will be troubled by how the authors paint the great majority of white citizens. Biracial coalitions, this book implies, are impossible because whites are self-satisfied hypocrites about race. Citing a classroom experiment, but no direct survey evidence, the authors believe that most whites are psychologically invested in perpetuating white social superiority. The authors claim that whites dress up their relative privilege in myths about hard work and personal responsibility, conveniently ignoring how, for decades, they profited enormously from affirmative action for whites in housing, jobs, medicine, and education. Now that most whites pronounce themselves free of prejudice, they want to blame blacks for black disadvantage.

There is undoubtedly some truth to this unattractive picture of white opinion. But the authors do not seriously assess just how accurate it really is, and instead lock themselves into constant ridicule of those millions of benighted citizens who supposedly pursue a possessive investment in "whiteness." The authors might have been better served by offering some theory of the conditions for biracial coalitions and some assessment of the prospects for saving those civil rights policies that we already have. Still, despite the limitations, their book offers an excellent and often enlightening survey of policy issues.

RICHARD M. VALELLY
Swarthmore College

Immigration and Politics in the New Europe: Reinventing Borders *by Gallya Lahav. New York, Cambridge University Press, 2004. 334 pp. Cloth, $75.00; paper, $27.00.*

The development of European immigration policy presents an interesting puzzle for scholars of European Union (EU) integration. In promoting open borders and free markets, member states have adopted common policies that allow for the free flow of capital, goods, and services. At the same time, states have sought to control the movement of people to and implement restrictive immigration policies at the EU level. According to Gallya Lahav, a restrictive EU immigration policy, rather than one that is liberal and open, is a paradox that conventional theories of European integration are unable to explain. Lahav argues that the restrictive, antiliberal immigration policy is largely a function of consensus among mass and elite attitudes toward immigration problems. The analysis is an ambitious attempt to link supranational processes to public opinion and competing ideological, national, and cultural interests at the nation-state level.The initial step is to lay out the paradox and examine European

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integration dynamics against the backdrop of international migration pressures. Chapter 2 gives a historical overview of EU expansion into immigration policies and argues that member states have ceded some decision-making power, but only when it involves constructing barriers to immigration, especially from non-EU countries.

The remainder of the analysis (chapters 3–5) marshals the evidence to show a broad congruence among mass and elite opinion as it relates to immigration issues. The author draws on public opinion surveys over ten years, as well as her own survey and interviews of EU parliament members, to show that both mass and elite attitudes toward immigration vary systematically on the basis of national identification, partisan affiliation, ideology, and support for European integration in general. In many senses, this is the most impressive part of the analysis. The intuitive finding that partisan affiliation and ideology affect immigration attitudes and, as an extension, policy-making behavior among elites, is well-supported and important. Moreover, chapter 5 confirms and elaborates on previous expectations that restrictive immigration attitudes are part of larger anti–European integration sentiment.

The analysis of national factors, however, is less convincing and seems to lack general analytical rigor. The primary national level variable shown to influence immigration attitudes is the size of the foreign population, principally non-EU foreigners. The argument is that in countries with a larger foreign population, citizens and elites alike are more apprehensive of immigrants and prefer restrictive policies. This is a recurring theme throughout much of the analysis. However, the results are predicated on a questionable comparative measure of the "foreign" population—namely, it does not include "foreigners" who already have gained citizenship in a given country. Interestingly, the author mentions this problem early in the analysis, but then fails to question its implications for immigration attitudes. Consider, for example, France and the Netherlands. According to the author's estimate, their foreign populations are 4 percent and 3 percent, respectively. Yet, some estimates of their respective ethnic minority or foreign-*born* populations are around 12 percent and 18 percent. This distinction, however, is less relevant for countries in which naturalization is more difficult—for example, Germany and Austria. The effect of counting foreign-born citizens is to eliminate any relationship between the size of the foreign population and anti-immigrant attitudes. In short, it is likely that national differences do influence immigration attitudes, but this relationship is more complex than the author indicates in her analysis.

Despite these concerns, Gallya Lahav's book constitutes an important attempt to link supranational decision-making processes to national-level norms and public opinion on immigration issues. The author finds that increased globalization and regional economic integration can lead to cooperation on more restrictive policies in other domains.

STEVEN A. WELDON
University of California–Irvine

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Interest Representation in the European Union *by Justin Greenwood. New York, Palgrave Macmillan, 2003. 304 pp. $75.00.*

Part of a series on European Union institutions and actors, policy areas and member states, this book provides an overview of formal lobbying in Brussels. Given their "status . . . as the mainstay of EU interest representation," the author discusses interest organizations in five sectors: business, trade unions, professions, public or civic interests, and territorial interests (p. 13). He offers a framework for variation in influence given the policy-making procedure, types of policies (regulatory, redistributive, distributive), and dispersion of costs and benefits (narrowly or widely).

Much of the material in the book is descriptive, providing a detailed account of the policy-making process at the European level and arguing for a complex understanding of interest representation. As such, it is a useful reference. The author argues that trade unions have had weak influence in Brussels, given the "liberal core" of the EU's agenda, whereas cross-sectoral business associations have been more successful and are able to perform public interest functions because they are not tied to the interests of one specific constituency (p. 150). Professional organizations tend to be organized at the national level with extreme differences among member states, whereas public interest organizations, such as environmental groups, are more likely to have a European focus. Finally, despite high expectations for the Committee of the Regions, territorial groups have largely failed to secure influence in Brussels.

Interest groups have been relatively influential in the EU's history at some moments, such as during the creation of the Single Market, while relatively absent at others, such as during the development of the agreement for the European Monetary Union. This conclusion, the author suggests, provides both support for and caution in regard to neofunctionalist views of policy spillover as the driving force for integration as well as international relations views of states as the key actors in policy making.

Despite current concerns that the EU does not represent the interests of its citizens well (as in the notion of a "democratic deficit"), Justin Greenwood argues that the policy making in Brussels is actually more open to interest representation than policy making in nation-states because its complexity and multilevel institutions create greater opportunities for input and require outside information in order to make policy. He goes to great lengths to demonstrate the European Commission's efforts to support interest groups, ranging from their actual creation with Commission funds, to support by the Commission, to the delegation of quasiofficial functions to these groups by the Commission, to efforts at openness. At the same time, he concedes that greater access due to fragmentation tends to insulate the policy process and limit the impact of interest groups.

The author is skeptical of alternative channels for interest representation, arguing that EU politics are institutional politics, and that "there is little room

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for 'social movement analysis' couched in grassroots mobilization" (p. 13). Although defensible, this is regrettable, inasmuch as discussion of recent trends and research might have offered a contribution to an otherwise relatively traditional summary of the literature at a time when the EU is considering greater political integration. For example, although Greenwood asserts that the European Parliament "has established structures for channeling citizen and social protest" (p. 228), stubbornly low voting rates in European parliamentary elections as well as disruptive protests at the EU summit in Goteborg in 2001 suggest that one may need to consider other arenas of interest representation.

Further, the literature on social movements has begun to analyze the blurring of boundaries between institutional and noninstitutional politics, as when lobbying groups adopt social movement tactics such as public demonstrations and when social movements become more formalized, adopting the strategies of lobbyists. In this way, social movement theory might offer insight into the broader question, how well do interest groups at the European level actually represent those whom they claim to represent?

JOHN K. GLENN
German Marshall Fund of the United States

The European Parliament *by David Judge and David Earnshaw. New York, Palgrave, 2003. 355 pp. Cloth, $75.00; paper, $24.95.*

The European Parliament (EP) is a complicated beast. It encompasses a number of different countries, where the people speak different languages, adhere to different political traditions, and debate different issues along different dimensions. Yet the EP functions much as does any other parliament, with recognizable political groups operating from distinguishable ideological positions and exercising considerable influence over the decision-making processes of the European Union (EU). Given this remarkable synthesis of diverse political cultures into a workable institution, we might expect the EP to emerge as a centerpiece of European democracy. On the contrary, however, most Europeans know little about how the EP functions, and even fewer are willing to participate in Euro-parliamentary elections. Worse, those who do cast their ballots often express preferences about national, not European, politics. Despite its institutional success, the EP is developing into a popular political failure.

David Judge and David Earnshaw make a heroic effort to uncomplicate the beast. Their book is an attempt to "locate" (p. 2) the European Parliament in three dimensions, as it relates to other EU institutions, to other parliaments, and to European voters. In this way, they assess the comparability of the EP as an institution, its influence over EU decision making, and its legitimacy within the democratic process of Europe. They also set out how the EP has evolved, how it is organized, and how it functions.

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The historical and institutional descriptions are the real strength of the book. Judge and Earnshaw do a masterful job of highlighting the major junctures in the development of the EP. Their discussion of organization, powers, and influence (chapters 6 to 8) is clearly set down, readable, and informative. In this way, Judge and Earnshaw clearly succeed in locating the European Parliament among the other institutions of the EU. Their exposition will help anyone hoping to understand or explain how decisions are taken at the European level.

Locating the European Parliament among parliaments more generally is more difficult. Judge and Earnshaw are right to emphasize that the EP looks like a parliament. The transnational political groups, ideological cleavages, professional politicians, etc., all lend to the appearance of a coherent legislative organization. Yet it is difficult to accept the position of the EP within the complex of other EU institutions while still regarding it as a parliament like any other. The link between legislative and executive authority is too tenuous, the decision-making procedures too baroque, and the transmission of popular preferences into political authority too subtle. Indeed, the effect of their institutional and historical description is to convince the reader that the EP is not a parliament like any other.

Moreover, the uniqueness of the EP as a parliament helps to explain the weak relationship it has with the European electorate. The EP offers little democratic legitimacy to the EU as a whole precisely because it works as though the national differences matter less than transnational ideological disputes. Few voters can identify with such "representation" at the European level. Fewer still have the patience to map out where the EP has influence and where it does not. Therefore it is small wonder that they vote in European elections on the basis of national issues.

Judge and Earnshaw acknowledge the shortcomings of European elections, but they do not draw the correct conclusion in relation to democratic legitimacy. No matter how influential, the EP is not democratically legitimate, inasmuch as its actions bear no clear relationship to the behavior of European voters. Worse, the more the EP enmeshes itself in the complex web of European institutions and the more its members act as though the EP is a real European Parliament, the less is it likely to be perceived as legitimate by the Europeans themselves. Finding a formula to legitimate the EP will not be easy. Complicated institutions create complicated problems.

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The Future of NATO Expansion: Four Case Studies *by Zoltan Barany. Cambridge, UK, Cambridge University Press, 2003. 256 pp. $65.00.*

The problem with writing about current events is that books date very quickly, to be consigned to either the remainder bin or the dustbin. That would ordi-

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narily be true of this book, which sought to help shape debate about the enlargement of NATO but which was quickly overtaken by events: the latest round of accessions was contrary to the author's arguments and attitudes, but is a *fait accompli*, nonetheless. Yet this book is a candidate for neither remainder bin nor dustbin, because it still contains the essence of debates both past and future.

In the mid-1990s, whether—and why—NATO should take in new members was hotly debated, nowhere more so than in the United States, which was, after all, the country whose strategic commitment was most prized by the aspirants and on which consequences would most likely be brought to bear if there were another critical challenge to European security. The opponents of enlargement won, in the sense that the first round was limited to only three countries—although with the proclamation of an "open door" policy; but they also lost, in that the precedent was set—most importantly, this book would argue—for admitting to NATO membership countries that were not yet ready to meet the full responsibilities of allies. One merit of this book is that it revisits—as well as any treatment—all the arguments for and against NATO enlargement in a clear, concise, and comprehensive way. This is a rare virtue, in view of the complexity of the issues.

Its second cardinal virtue is that it sets criteria for judging the worth as potential allies of countries admitted to NATO membership at the Prague summit in 2003. Zoltan Barany sets five of these criteria, which are as good as any, especially inasmuch as NATO itself has never had any formal requirements beyond the standards used by individual allies to determine whether to ratify accession. These criteria are: domestic politics (meaning a working democracy) and minority affairs; a market-driven economy; campaign and support for NATO membership; democratic control of the military; and military reform and expenditure. This is a sensible list, with the possible exception of campaign/support for NATO, which is not the same thing as long-term devotion to (and spending on) the things that matter.

The centerpiece of *The Future of NATO Expansion* is the subtitle, *Four Case Studies*, concerning four aspirants, now allies, that most bear inspection in terms of what they can (and do) contribute to NATO's and their own potential for security—in a phrase coined by this reviewer, to be "providers and not just consumers of security." Professor Barany puts Slovenia, Slovakia, Bulgaria, and Romania under the microscope (he is perhaps correct to pay less attention to the three Baltic states that have just joined NATO, although by some criteria there is success among them). Officials of these four countries may not like all of what they read here; and vigorous debate will no doubt take place on the validity of Barany's observations. But what cannot be doubted is that he has taken seriously the issue of what countries must be able to do to be effective as allies, assuming that there is a "security problem" to be answered and assuming that the alliance may want to do something that could be affected by what these allies can or cannot, will or will not do. His case thus

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deserves to be inspected carefully; and here, as in presenting arguments for and against NATO expansion itself, his research is both prodigious and penetrating.

If something is left to be desired in this volume, it is in areas that are not central to its theme and that would need study on their own: for instance, the grand strategic framework for NATO enlargement, the interconnection of different instruments—especially the great value of Partnership for Peace (although this is referenced by the author)—and the "what for" of NATO's future, which in both theory and practice is already more advanced than is acknowledged here. Within an important sphere of analysis, this is a first-class work.

ROBERT E. HUNTER
RAND Corporation

The United States and Western Europe since 1945: From "Empire" by Invitation to Transatlantic Drift *by Geir Lundestad. Oxford, New York, Oxford University Press, 2003. 331 pp. $49.95.*

This book, written by a long-standing expert in the field, provides a superb overview of America's relations with Western Europe over the last six decades. The author's understanding of Western Europe is multilayered. He recognizes the distinct nature of bilateral relations. Readers will thus find key passages on France and Germany as well as on Britain's "special relationship" with the United States, often complemented by observations on how smaller powers such as Denmark and Norway defined their relationship with America. Yet, the actual focus is on the Western European states in the process of European integration and on the development of NATO. In fact, this book offers simultaneously a history of the Western alliance system, of the "Atlantic community," and of the American attitude toward European integration—an unparalleled endeavor.

Geir Lundestad does not immerse himself in theoretical reflections and political science models; yet he leaves no doubt that this synthesis is meant to go beyond the stereotypical differences (and disputes) between the "realist" and the "liberal" approaches to explaining international relations. Power strategies and national interests of states play an important role in Lundestad's account, as when he deals with the containment of Germany and France's cautious rapprochement with NATO since François Mitterand. Controversial economic and trade issues also occupy a large space. But Lundestad, following Karl W. Deutsch, also underscores the role of ideologies, transatlantic networks, and public opinion in determining the intricate balance between consensus and conflict in transatlantic relations.

The author's interpretation of these relations picks up on his previous works, especially the much-discussed argument about America's hegemonic influence over Western Europe as the creation of an "'empire' by invitation." The invitational aspect is now being used as a leitmotif for the entire time

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period, from the Western Europeans' fear of the Soviet Union in the early Cold War, to their efforts to keep the United States "in" during the 1970s and 1980s, and ending in the explicit pro-American positioning of the new or now non-Communist nation-states in Central and Eastern Europe after 1991. Lundestad makes it overly clear that the United States, by following such invitations, served its own national interests. Equally, Europeans criticizing America's hegemonic tendencies have tended to overlook the enduring dependence of the European states on American military capacities as well as the almost perennial unwillingness of these states to accept a larger share of their own defense and military expenditures. At least in military terms, as Lundestad states laconically, the United States "could deliver" (p. 34). This U.S. capacity is one of the reasons why NATO survived the demise of its main adversary. The author assesses the continuity and enlargement of NATO as a surprising success story, but is too cautious to fall back into any Whiggish progressivism. The American preference for unilateralism under the administration of George W. Bush, changing demographic and cultural patterns within the United States, the strengthening of the European Union as an independent actor, and, in particular, transatlantic disputes about out-of-area missions are some of the factors that Lundestad identifies as potential indicators of a more enduring transatlantic drift.

This book is a "must read" for political scientists, historians, and anyone interested in the transmutations of international relations and issues of hegemony and coherence in alliance systems. It is written in a concise, jargon-free style that makes it appealing to a larger audience. The unpolemical character of the prose and the balanced judgments add to the many virtues of this book, which offers a powerful argument, presents a sophisticated narrative, and is a magisterial, and, indeed, the best synthesis available of transatlantic relations since 1945—a massive achievement.

ANDREAS W. DAUM
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Preserving Power Through Coalitions: Comparing the Grand Strategy of Great Britain and the United States *by Maria Sampanis. Westport, CT, Greenwood Publishing Group, 2003. 156 pp. $64.95.*

The decline of the United States as a hegemonic power has been heralded several times over the last two decades, and the study of how past hegemons coped with their decay is meant to teach American policy makers the most effective strategy for dealing with the rise of challengers. Maria Sampanis's book is one of such comparative historical analyses with the goal of culling lessons for the United States.

The main argument is that declining hegemons seek weaker powers as allies to preserve their position of preeminence in international relations. The

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traditional explanation, according to the author, is that hegemons in decline have three possible strategies: they can wage war against the rising challenger, seek alliances with similar great powers, or, if they choose not to maintain their status, do nothing and accept their inevitable demise. Maria Sampanis offers a fourth variant as a strategy for maintaining hegemony: hegemons that are losing their edge over other powers can establish coalitions with weaker and smaller powers. Such alliances with the weak allow the decaying hegemon to maintain its leadership role (these are "vertical" relationships, in which the hegemon can impose its will over its subordinates) while at the same time acquiring increased leverage for its confrontations with the challenger (the "horizontal" relationships).

The argument for the "fourth variant"—"vertical coalitions"—for a declining hegemon is illustrated in two case studies: the British Empire and the post–World War II United States. The case studies focus on economic and financial relations within the larger context of the international environment of the time. Commercial relations are a proxy for the strategy pursued by the hegemon: if it favors weaker powers with trade, then it is pursuing a "vertical coalition." The first case study describes the strategy of Great Britain from 1880 until the 1930s, a period during which the hegemonic position of the British Empire was eroding. The shift in the pattern of British trade was in favor of the weaker powers, mostly within the imperial sphere of influence. The Empire, and then the Commonwealth, was the British response to Germany's rising power.

Similarly, in the post–World War II era, thanks to its hegemonic position, the United States created international institutions that were based on a clear hierarchy of power. But with the rise of new challengers, notably Europe and Japan, American prestige and leverage weakened. As a result, the United States now prefers regional agreements—NAFTA, for example—to some sort of alliance with the EU or Japan. In other words, NAFTA is a means of facing the challenge of horizontal relations by strengthening coalitions with weaker powers. It remains to be seen if this strategy will prove more successful than was Great Britain's.

The book is an interesting and short comparison of British and American economic strategies aimed at preserving power. Its main weakness is that it is unclear as to whether these strategies—striving to create "vertical" or "horizontal" coalitions—are a manifestation of a decline or a response to it. At times, Sampanis seems to indicate that the establishment of coalitions with weaker states is a sign of the hegemon's decline (p. 22), whereas at other times, she appears to say that this is a conscious policy pursued by a hegemon that is recognizing its own decline (p. 38). The difference is important and should have been explained. If these strategies are simply a manifestation of the inevitable rise and decline of the hegemon, then there is not much that a great power can do to preserve its position. If they are, however, a response to a condition of perceived decline, then they should be evaluated in terms of their effectiveness. Such evaluation is missing.

JAKUB GRYGIEL
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States and Markets: A Primer in Political Economy *by Adam Przeworski. Cambridge, UK, Cambridge University Press, 2003. 223 pp. Cloth, $65.00; paper, $23.99.*

Two aspects of modern political economy make it an unattractive field for political scientists. First, working through many of the more interesting results requires a lot of tolerance for mathematical minutiae. And second, the field is strewn with small results about myriad different aspects of different political processes. Adam Przeworski's *Primer* is well positioned to respond to these two concerns, although scholars looking for grand theories of politics won't find much here.

Przeworski covers an extraordinary range of material. He works swiftly through the ways in which markets function, giving the basic intuitions behind the miracle of the market and then, with much more passion, describing market failures. After presenting the principal-agent framework, he tackles three major areas of research in political economy: private sector regulation, the control of bureaucracies, and the accountability of politicians. With the treatment of markets and states completed, the final sections look at the role of states *in* economies, with a focus on economic growth, redistribution, and social insurance. Readers who work through all this will have a very solid grounding in political economy.

The book is very successful in communicating the core insights of this complex material using little beyond basic calculus. When needed, Przeworski gives a gentle introduction to constrained optimization. And when source material skips over steps in the derivation of results, he fills in the gaps. This should let many readers follow the full derivation of results and, hopefully, allow them to experiment further with the models.

The simplification of the exposition is, however, accompanied by a loss in rigor that sometimes makes following and interpreting the text difficult and that may be misleading for readers hoping to take the subject further. There are many typographical errors and much loose usage of technical language. The problem is more severe when the explanations of core concepts are off. For example, Przeworski suggests that competitive markets are well-behaved, with unique equilibrium price vectors, when, in fact, these equilibria are not necessarily either unique or stable. There are similar, possibly misleading characterizations of Jean-Michel Grandmont's notion of "intermediate preferences," of John E. Roemer's notion of a party unity Nash equilibrium, and of the median voter theorem.

While Przeworski's *Primer* succeeds well in surveying results in the field, it is less successful in the more difficult task of presenting this material within a unified framework. At the outset, the principal-agent framework is billed as a unifying concept for describing the networks of relationships that obtain in and between states and markets. However, although the framework proves useful in the chapters on regulation and political accountability, it does not

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bring Przeworski as far as we would have hoped. Most disappointing—although this reflects the field more than it does this volume—relatively few of the results on markets and states from Parts I and II are in fact used during the discussion of the state *in* the economy in Part III. The treatment of economic growth illustrates the point well. Most of the discussion of growth uses neoclassical models in which everything that we have learned about politics is missing. Przeworski later introduces a richer model in which growth depends on whether players choose to save optimally or to "grab" resources. Sometimes they grab and subsequently endure perpetual suboptimal growth. Although this illustrates how politics can hinder growth, the model gives little insight into states and markets; in a way, the problem arises here precisely because the model includes neither a market nor a state, institutions capable of enforcing contracts or of coercing consumers.

The problem of providing a more integrated treatment of political processes remains, as Przeworski put it, a Holy Grail of political economy. In the meantime, few volumes relate the many parts of the jigsaw puzzle as clearly as does this one. The problems of clarity and rigor that exist can and should be fixed for the second edition. And there should be future editions. This is a book that will open doors for many students of politics and that will likely become an indispensable text in the field.

MACARTAN HUMPHREYS
Columbia University

Economics, Bureaucracy, and Race: How Keynesians Misguided the War on Poverty *by Judith Russell. New York, Columbia University Press, 2003. 304 pp. Cloth, $62.50; paper, $24.50.*

The programs created by the Economic Opportunity Act of 1964 did not mark the same sort of watershed in our social welfare policy that programs such as Social Security and Medicare did. Instead of a grand point of departure, the War on Poverty has more often been viewed as a misdirected set of uncoordinated initiatives that failed to achieve their purpose. From the right, social commentators use the War on Poverty as a more general metaphor for the Great Society and argue that its various subsidies undermined work effort and exacerbated the problem of poverty. From the left, social commentators describe the War on Poverty as a failure of will—afraid of real income distribution, poverty planners instead timidly stressed opportunity.

Judith Russell, in this intriguing monograph, puts a new twist on the argument from the left. She argues that the best means of reducing poverty in 1964 would have been a commitment to providing the poor with jobs but that distinct economic, political, and social forces made that strategy impossible. Instead, Keynesians sold President John F. Kennedy on the idea of a tax cut and neglected the importance of structural unemployment that required gov-

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ernmental provision of jobs. Furthermore, the bureaucratic champions of the idea of structural unemployment and direct job creation—particularly Secretary Willard Wirtz, to whom Russell assigns a particularly prominent role—had the disadvantage of being located in the Department of Labor, far away from the White House glamour of the Keynesians on the Council of Economic Advisors. To be sure, civil rights leaders clamored for jobs programs, but their voices failed to influence President Kennedy or the poverty planners who did most of their work in 1963. The result was a flawed piece of legislation.

Russell nicely integrates the insights of political scientists such as Ira Katznelson and Robert Lieberman with the process of historical narrative. Still, the book left me with questions. As I see the world in 1963, the civil rights leaders were focused on the passage of what became the Civil Rights Act of 1964. The economists centered their attention on a tax cut. Those who held the income maintenance brief were locked in a battle with congressional conservatives over education and health insurance for the elderly. That left only the Department of Labor as a bureaucratic champion of a jobs program and, as Russell demonstrates, the stock of the department was not very high with President Kennedy. Furthermore, a jobs program did not really mesh with the times. In the thirties, when the nation made a major commitment to such programs, they were always understood as temporary measures. In the sixties, with such optimism about economic growth, it does not seem likely to me that direct jobs programs would have been on the policy agenda. Instead, programs to induce people to enter the labor force or to stimulate the economy to reach full employment were more likely. In any argument of structural employment versus the Keynesian notion of augmenting aggregate demand, the institutionalists, and generalists like Wirtz, were destined to lose to professional economists such as Walter Heller. The outcome was not inevitable, but it was not particularly surprising. Things might have been different in 1965, after all of the various measures favored by others had been passed and after the Watts riots. But Russell does not accord much of a role to historical contingency. Instead, she writes as if she were right there with Willard Wirtz, arguing his case and suffering the same sort of disappointment.

EDWARD D. BERKOWITZ
George Washington University

Toward Nuclear Abolition: A History of the World Nuclear Disarmament Movement, 1971 to the Present *by Lawrence S. Wittner. Stanford, CA, Stanford University Press, 2003. 668 pp. Cloth, $75.00; paper, $32.95.*

This third volume completes Lawrence Wittner's monumental trilogy, *The Struggle Against the Bomb*, a comprehensive history of movements around the world opposed to the development of nuclear weapons and the arms race. Starting in 1945, with the first use of nuclear weapons, activist groups, scholars,

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clergy, and politicians have tried to halt the development and proliferation of nuclear weapons. Opposition to the arms race has continued since the dawn of the nuclear age, but has ebbed and flowed in response to the state of world affairs, in general, and the arms race, in particular. Dominating public discourse on occasion—recall the "Ban the Bomb" campaign in the 1950s or the "nuclear freeze" in the early 1980s—the anti–nuclear weapons movement is barely visible most of the time, and is oddly and inappropriately absent from most treatments of the arms race.

The three decades covered in this last volume start with the fading of the peace and antinuclear movements of the 1960s and the consolidation of a superpower strategy to manage the political fallout of the arms race through negotiated arms control agreements in the early 1970s, including the Strategic Arms Limitation Treaty (SALT), anti–ballistic missile treaties, and threshold test ban treaties. Following the pattern of previous agreements, these treaties made it more difficult to oppose the arms race, essentially making the nuclear arms race and nuclear proliferation politically possible.

By the end of the decade, however, the peace movements reemerged, in different forms in different places. First in the South Pacific, activists and governments mobilized against proliferation and nuclear testing; then in Europe, in response to new weapons and a breakdown in the arms control process; and then in the United States, in response to bellicose rhetoric and astounding levels of military spending during Ronald Reagan's first term. The early 1980s witnessed the most extensive and most diverse eruption of protest against nuclear weapons to date, with actions including papal pronouncements, petitions, massive protest demonstrations, and the establishment of permanent peace camps outside military bases.

To quell the political fallout from the arms race, Western leaders hastened to resurrect the appearance of an arms control process, offering new proposals that they expected the Soviet Union to reject. Mikhail Gorbachev's then-astounding willingness to accept asymmetrical cuts in nuclear weaponry led to unprecedented arms control agreements that, for the first time, actually meant dismantling deployed weapons. The new détente made political reform possible in Eastern Europe and the former Soviet Union, ultimately resulting in the unraveling of the Cold War.

In response to this unclaimed victory, when the peace movement might actually have gotten some of its demands met, it receded, as activists turned to more provocative issues around the globe. It's all in here in an unprecedented overview of the range of movements, issues, and activities. The book provides at least a capsule description of virtually everything, with sourcing sufficiently clear and extensive as to allow the interested reader to find out more.

Wittner's monumental achievement resurrects the diverse and complicated movements that comprised a critical, if generally neglected, component of the history of the Cold War. This neglect should be not only less possible, but increasingly inexcusable, in the wake of the 1,800 pages of *The Struggle Against*

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the Bomb. The books should find their way not only to the shelves of scholars of social movements but also to those of anyone interested in the practice of international relations since the advent of the nuclear age.

DAVID S. MEYER
University of California–Irvine

Military Intervention: Cases in Context for the Twenty-First Century
edited by William J. Lahneman. Lanham, MD, Rowman & Littlefield Publishers, 2004. 240 pp. Cloth, $65.00; paper, $26.95.

This collection of essays by William Lahneman provides a useful set of case studies and summary reflections on military interventions since the end of the Cold War. Military intervention in internal conflicts has arguably been *the* preoccupation of the policy establishment following the eclipse of the U.S.–Soviet strategic confrontation. Indeed, this book resulted from a project sponsored and funded in 2000 by the National Intelligence Council, a body established to provide analysis to the American director of Central Intelligence, and the editor has made a strong effort to distill the conclusions into a policy-friendly format. Yet the volume also deserves attention from members of the academy interested in the resolution of internal conflicts through outside military intervention.

The volume's opening chapter, by John Steinbrunner and Jason Forrester, attempts both to survey the debates over the causes of internal conflict and to outline a few of the controversies related to the impact of (external) military intervention. Among the debates on the sources of conflict is the "greed versus grievance" question: do internal conflicts arise mainly from legitimate domestic grievances or from the prospect of potential economic benefits to would-be insurgent organizations? Another is the question of whether internal conflicts result mainly from pressure created by the external environment or from internal social tensions. Although the question might have been drawn out more clearly, the chapter also identifies the main issue in regard to external intervention, namely, should outside interveners attempt to function as neutral, humanitarian arbiters between (equally legitimate) warring parties, or should they seek to impose peace on fractured polities by siding clearly with one party in the conflict? The chapter ends, somewhat incongruously, with a brief discussion on post–September 11 NATO intervention in Afghanistan.

This incongruity underscores one of the book's most serious conceptual flaws: the editor and case study authors have to contend with far too many different types of intervention for them to reach neat conclusions. The addition of the adjective "military" only begins to delimit the multifaceted phenomenon of "intervention." The discussion in most chapters focuses on multilateral and humanitarian intervention of the type we associate closely with conflicts in societies on the peripheries of world politics since 1991. Yet the intervention in

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Afghanistan, while multilateral, was not undertaken primarily for humanitarian purposes, but for purposes of national security. Hence, that intervention was a competitive intervention designed to bring to power one side in a civil war, and in this sense was not unlike the interventions of the Cold War era. Likewise, the contemporary military intervention in Iraq is overwhelmingly for such purposes, and is much less multilateral than that in Afghanistan. Some of the cases presented in this book (such as Bosnia) included both types of interventions, while others (such as Haiti) involved situations in which the interveners' motives were decidedly mixed. The editor's decision not to delimit the form of intervention more clearly at the outset limits what he can conclude.

Nonetheless, the case studies in the volume are exceptionally well executed by senior scholars imbued with both deep awareness of theoretical issues and knowledge of the cases themselves. The cases include Somalia (David Laitin), Bosnia (Steven Burg), Rwanda (Gilbert Khadiagala), Cambodia (David Chandler), Haiti (Chetan Kumar), Sierra Leone (Kwaku Nuamah and I. William Zartman), and East Timor (Eric Schwartz). As a result, the conclusions at the level of the cases are more interesting than those at the generic level of "military intervention." The cases reveal that a great number of different types of intervention often happen in succession. Rwanda, for example, experienced invasion by a rebel army, then a multilateral UN mission (UNAMIR), and finally, a (virtually) unilateral mission by France that had mixed political and humanitarian motives ("*Opération Turquoise*"). Likewise, Bosnia first experienced an ineffectual UN humanitarian relief mission and, subsequently, a far more robust NATO intervention designed to stop Bosnian Muslim ethnic cleansing.

One regrettable omission is the case of the Democratic Republic of Congo, torn by internal war and external intervention since 1998. This unfortunate state has experienced both forms of intervention, that is, competitive intervention by other African states and multilateral humanitarian intervention in the form of the United Nations's MONUC mission (since 1999). Civilian and military deaths in the conflict number between three and four million, far surpassing the numbers killed in any of the cases presented in this volume.

The editor's concluding chapter covers questions of intervention that relate to timing, legitimacy of the intervening forces, measuring success, and nation building. Although his generic conclusions are mostly unsurprising and not highly edifying, his summary conclusions of the cases are most valuable. This observation again underscores the multifaceted nature of military intervention and the necessity of untangling the concept for the purposes of analysis.

JOHN F. CLARK
Florida International University

The Geography of Ethnic Violence *by Monica Duffy Toft. Princeton, NJ, Princeton University Press, 2003. 256 pp. $37.50.*

The central question posed by Monica Duffy Toft is why some ethnic conflicts turn violent, but not others. Her analysis focuses on the role of ethnic settlement

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patterns and their consequences for popular attachments to the land in determining the answer to this question. The analysis and her findings are intended to apply principally to cases of conflicts that occur between ethnic groups and the state under whose control they find themselves. She combines statistical analysis, based on data drawn from the Minorities at Risk (MAR) project, with case studies of two matched pairs of violent and nonviolent conflicts. These consist of the conflicts between Russia and Tatarstan and Chechnya, and the conflicts between Georgia and Abkhazia and Ajaria.

Toft argues that "if an ethnic group is a majority concentrated in a region of a state, and is located in its homeland, then it is most likely to see control over a particular territory as indivisible, demand independence, and therefore end up in violence. If a state contains two or more ethnic groups capable of seceding, then it is likely to see its territory as indivisible and resort to violence to maintain its borders"(p. 11). Status as a concentrated majority, in her analysis, is associated with the ability of ethnic groups to legitimate their claims and mobilize their populations; in short, it gives them the capacity to wage violent conflict. The argument is taken one step further, to the assertion that if these conditions are present, an ethnic group *will* seek to establish sovereignty over its territory, "especially if that region is a historic homeland" (p. 19). This assertion begs the question, however, of whether the group will resort to violence. Although the several formulations of this argument come close to an assertion of causality, the statistical analysis and the case studies suggest otherwise.

The regression analysis presented here uses MAR data on rebellion, on spatial concentration, and on majority status of ethnic populations. The author finds that "concentrated majorities are two and a half times more likely than concentrated minorities and approximately four to five times more likely than urban and dispersed groups to engage in rebellion" (p. 38). But the analysis also reveals that "37 percent of concentrated majorities that were involved in ethnic conflict did not engage in any sort of violence" (p. 38). However, this startling finding, which cries out for a comparative analysis of violent and nonviolent concentrated majorities, receives no further attention. The theoretical discussion and case studies focus exclusively on settlement patterns.

The case studies that comprise more than half of this volume suggest a detailed and sophisticated understanding of the social, political, and economic factors, as well as of the psychological factors, such as perceptions of relative worth and the dynamic of fear, that affect the course of each of these conflicts. However, although the author clearly recognizes the importance of such factors and of the differences among the cases in these dimensions, she subsumes them under the analytical umbrella of settlement patterns.

The author contends that concentrated majority status gives a group claim to sovereignty legitimacy. Her argument implies that there is a relevant audience outside such conflicts that will recognize the legitimacy of such claims and act upon them. Yet, the author's own case study of the conflict in Abkhazia suggests that external actors may act on the basis of their own strategic interests,

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rather than on any calculus of the legitimacy of competing claims. External intervention is not part of the author's theoretical framework.

STEVEN L. BURG
Brandeis University

Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order *by Gerry Simpson. Cambridge, UK, Cambridge University Press, 2004. 390 pp. Cloth, $95.00; paper, $34.99.*

Scholars in the fields of international politics and international law are engaged in an important and productive dialogue. From the "legalization" literature on institutions and cooperation, to work on state sovereignty or questions of compliance with international treaty regimes, legal research and political science research are developing important insights through thoughtful interaction and integration. Gerry Simpson's book, *Great Powers and Outlaw States*, tackles a fundamental political and legal issue in precisely this tradition. Indeed, he dives headlong into the apparently deep conflict between formal legal equality and the deep power inequalities of international politics. Why have the most powerful few states consistently been allowed a unique role in defining the contours of the prevailing international legal order? To what degree are even the most powerful states in any international system constrained by the need for joint decision making? How, in fact, might power and law be reconciled as the United States asserts the right to strike states preemptively (or preventively?) anywhere in the world?

Simpson develops a credible and subtle explanation of the severe difficulties inherent in sovereign equality based on "the idea that states can be differentiated in law according to their moral nature, material and intellectual power, and ideological disposition or cultural attributes" (p. 6). Rather than traditional, sovereign equality, what matters is "juridical equality," as founded on "legalized hegemony" and "anti-pluralism" (p. 6). The former, "legalized hegemony," is the special role or prerogative allowed great powers over the past two centuries. Most middle and smaller powers consent to disproportionate great-power authority over the international legal order. Under this exclusive system of nineteenth-century "anti-pluralism," which evolved in the twentieth century into "liberal anti-pluralism," great powers have jointly labeled certain states as either criminal or undemocratic. This, in turn, has justified great-power intervention in criminal or outlaw states such as Yugoslavia, Libya, and Afghanistan.

Following the best tradition of the "English" school of thought in international relations, but also the more realist, Stephen Krasner in *Sovereignty: Organized Hypocrisy*, Simpson offers a substantial historical survey and analysis of his argument. He maps out, comparatively, four cases of key "moments" of international constitutional design: Vienna in 1815, The Hague in 1907, San

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Francisco in 1945, and Kosovo in 1999. To his credit, the central argument and cases foreshadow—even anticipate—the U.S. invasion of Afghanistan and its associated justifications. Great powers exclude outlaw states from the benefits and protection of the system by a process of surveillance, threats, punishment, and ultimately, "community-sanctioned violence" or intervention. Although the research for the book was complete before the U.S. invasion of Afghanistan, a useful final chapter carefully assesses the case and finds it consistent with past practice.

Certainly the research adds conceptual and empirical specificity to what could otherwise become an arcane debate among international legal scholars. On the other hand, the book will be criticized, and not entirely unjustifiably, as an overly flexible, hierarchical, and Western approach to international legal analysis. If stretched, the argument could be applied to justify almost any intervention. In particular, it would have been useful to specify further the responsibilities incumbent on great powers, as well as the limits of middle- and smaller-power acquiescence. Importantly, the argument does not justify the U.S. invasion of Iraq in 2003, because in this case the inner group of great powers disagreed sharply over the nature of the threat posed and the appropriate responses. Unlike the cases of Kosovo and Afghanistan, great-power consensus collapsed over Iraq, NATO refused to become substantially involved, and a deep rift divided even Germany and the United States. Indeed, in 2004, the UN Secretary General publicly announced his opinion that the U.S. invasion of Iraq was illegal.

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The Myth of Civil Society: Social Capital and Democratic Consolidation in Spain and Brazil *by Omar G. Encarnación. New York, Palgrave, 2003. 233 pp. $55.00.*

In the 1990s, political scientists and international aid donors renewed interest in civil society, placing great faith in "vibrant" civil societies contributing to democratization and the institutional performance of government. Omar G. Encarnación challenges the prevailing wisdom that a vibrant civil society is either a necessary or a sufficient condition for consolidating democracy, pointing out that conventional thinking expects too much from civil society and underestimates the importance of effective political institutions.

Empirical support for this view comes from case studies of democratic transitions in Spain and Brazil. Spain offers a case of successful democratic consolidation despite a surprisingly anemic civil society, and Brazil provides a case of questionable consolidation despite a highly vibrant civil society. Taken together, Spain and Brazil show, respectively, that civil society is neither a necessary nor a sufficient condition for democratic consolidation.

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Encarnacíon explains the success of Spain and the relative failure of Brazil by the performance of their political institutions. Spain's success arises from successful pacting supervised by King Juan Carlos under the Moncloa accords and was facilitated by preexisting linkages between institutions in the Franco regime and key actors in society. Brazil's failures arise from a history of political manipulation by the outgoing regime, which destroyed trust in the political system; and because a highly vibrant civil society has muddied the division of social responsibilities between state and society.

An important contribution to the literature, the book does a better job of criticizing present thinking on civil society than of showing what controllable aspects of political institutions determine democratic outcomes. One problem is that Encarnación never clearly defines what he means by "civil society," "social capital," "democratic consolidation," and "institutional performance." In his introduction, Encarnación seems to be equating social capital with organizationally dense civil societies and suggesting that social capital is not as important to democratic consolidation as is generally thought. Later, he appears to say that social capital is important for trust and consolidation, but that effective political institutions generate it more reliably than do dense civil societies. By the end of the book, one is unsure whether democratic consolidation is explaining social capital or vice versa.

More problematic is that democratic consolidation is never defined explicitly and seems to be equated with resolving key social problems in society. Conflating democratic consolidation with government performance on policy issues flirts with tautology. That Spanish democracy is consolidated is generally accepted by scholars, but it is much more controversial to describe Brazil as a failure. Encarnación points to problems in the early 1990s as evidence of shaky consolidation, but Brazil has progressed significantly since then, and the regime's ability to overcome earlier political failures without backsliding into military intervention is often seen by observers as a sign of successful consolidation.

Ultimately, even if civil society density fails to explain international variations in democratic performance, it may still be useful for understanding performance within a single political system. Robert Putnam's definitive study of Italian politics uses civil society density to predict the performance of subnational governments, not national ones. Although Encarnación shows that Putnam's explanation has empirical problems when it is used to explain variations *between* countries, civil society density may still help to explain variations *within* countries, including Spain and Brazil.

Despite some methodological issues, *The Myth of Civil Society* makes important contributions to political science literature by explicitly questioning whether we are attributing too much to civil society and underestimating the importance of political institutions, and by showing that we have been insufficiently specific about the real causal mechanisms that might link vibrant civil society and consolidated functioning democracy. It may well be that vibrant civil societies are

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more influential in bringing about the end of authoritarian regimes than they are in consolidating the democratic successors of these regimes. In consolidation, vibrant civil societies may help prevent backsliding into authoritarianism, but true consolidation will indeed demand institutionalizing the linkages that Encarnación identifies, and this can and must take place whether civil society is "vibrant" or not.

BRUCE P. CHADWICK
Columbia University

Collective Political Violence: An Introduction to the Theories and Cases of Violent Conflicts *by Earl Conteh-Morgan. New York, Routledge, 2004. 333 pp. Cloth, $85.00; paper, $24.95.*

The great virtue of Earl Conteh-Morgan's book is its breadth. Few if any other texts suitable for undergraduates survey general explanations of political violence along with analyzing such topics as international war, revolutions, ethnic conflict, genocide, terrorism, and peacekeeping. Examples of recent conflicts appear throughout, some of them sketched briefly, others at length. Tables are used creatively—for example, to contrast theoretical approaches, to list episodes of revolution, to identify recent UN peacekeeping missions, and to analyze motivations leading to different types of genocide.

No overarching framework unifies the diverse chapters, but two themes recur. First, that inequalities, deprivation, and a sense of injustice help to motivate many manifestations of collective violence. This is a useful corrective to the tendency of some scholars to ignore the human aspirations and anger that dispose people to join ethnic, revolutionary, and terrorist movements. Structural factors also are given their due—for example, persisting structures of domination in postcolonial countries and environmental degradation, but these factors are interpreted in terms of how they shape people's status and choices. Second, it is shown repeatedly that it no longer makes sense to analyze violent conflict solely as an internal problem: the causes, consequences, and responses to collective violence transcend international boundaries with ever-greater frequency.

Taken individually, the chapters are uneven. Although most are internally coherent, some—for example, chapter 10, on identity (ethnic) sources of conflict, and chapter 13, on terrorism—fail to impose conceptual order on complex subject matter. For example, at the outset of chapter 13, terrorism as a concept is said to serve "no useful analytic purpose because it has become a catch-all label" (p. 254); yet this is followed by twenty pages of discussion of alternative definitions, attempts at explanation, specification of types and issues of terrorism, and commentary on the impact of September 11. Much information is offered, but readers will have to find their own way out of the thicket.

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Another problem is the lack of attention to major recent works on some topics. A long chapter on societal and structural theories of violence fails to mention Charles Tilly's broad studies of large-scale structural change and conflict in Western societies or Sidney Tarrow's enormously influential work on social movements. The survey of rational choice explanations for collective violence is twenty-five years out of date, ignoring major efforts by Mark I. Lichbach and Dennis Chong, among others, to overcome the inherent limitations of the approach. Chapter 8, on the causes of revolution, is equally dated, overlooking modern classics such as the comparative historical analyses of Theda Skocpol and Jack Goldstone. Chapter 11, on the types and causes of genocide, fails to consider the comparative theories of Helen Fein, Barbara Harff, and Robert Melson.

The offsetting virtue of the book is its attention to post-Cold War issues: the resurgence of ethnopolitical conflict, the emerging environment-conflict nexus, and the challenges facing international peacekeepers and peacemakers. The discussions of genocide and international terrorism, flawed though they may be, also are of highest contemporary relevance. One other new topic, addressed in chapters 2 and 5 and elsewhere, is also praiseworthy. The author highlights the emergence of "irregular violent conflicts" in poor societies, where rebel leaders recruit and train the most disaffected and marginalized members of society, including child soldiers, and prey mainly on civilians. Conteh-Morgan highlights the devastation that these predatory conflicts, sometimes labeled "resource wars" or "clan warfare," have inflicted on his native Sierra Leone and other African societies, including Angola, Congo, Liberia, and Somalia.

Despite its flaws, some of them inherent in a work of this scope, *Collective Political Violence* should be seriously considered for adoption in undergraduate survey courses on conflict and global issues.

TED ROBERT GURR
University of Maryland

The Modern Prince: What Leaders Need to Know Now *by Carnes Lord. New Haven, CT, Yale University Press, 2003. 304 pp. $26.00.*

Do we still need political leaders in this postmodern era? Carnes Lord begins by asking this question, and answers with a resounding yes. Carnes Lord argues that despite leadership failures in the past generation, despite contemporary political systems that appear to be leaderless or even rudderless, we need political leadership as much today as in the past. He pays particular attention to questions of statecraft in modern democracies and the dangers of failures in political leadership.

The Modern Prince eschews a political science approach to the study of leadership. Instead, as suggested by the title, Carnes Lord draws principles of leadership from classical political theory, not only the works of Niccolo Machia-

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velli but also political philosophers ranging from Aristotle to Edmund Burke. However, although he develops the aspects of political leadership that are transhistorical, Carnes Lord also contends that the exercise of political leadership is specific to cultures and nations. This he illustrates with insightful examples ranging from ancient Sparta to modern Singapore. Carnes Lord does not attempt a scientific test of his argument, as would generally be expected if this were a political science treatise. But this is consistent with his contention that political science is "of doubtful relevance to the actual practice of politics in contemporary democracies" (p. 26).

The grammar of political leadership is statecraft (p. 23). Statecraft, in turn, requires a balance between vision and implementation. Reminiscent of Niccolo Machiavelli's *Discourses*, Carnes Lord does not try to resolve this dualism, but continually maintains the tension between practice and ideas throughout *The Modern Prince*. This focus on the role of ideas and on such old-fashioned notions as honor and prestige (p. 110) distinguishes *The Modern Prince* from most contemporary studies of leadership. Carnes Lord weaves this thread throughout the book, ranging from modern founders to law and culture.

Despite drawing ideas from classical political thought, *The Modern Prince* specifically addresses the nature and tools of political leadership today. Carnes Lord focuses on the problems of leadership in modern democracies generally and in the United States in particular. For example, to illustrate economics as a tool of statecraft, Carnes Lord discusses U.S. economic statecraft in the current war against terrorism, concluding that "there is as yet little reason to believe that today's leaders have made any serious effort to address such issues" (p. 150). The argument builds toward the final chapter 26 "Exhortation to Preserve Democracy from the Barbarians." The Western democracies face threats both from without—China, radical Islam—and from within, both culturally and institutionally. Carnes Lord argues that to preserve liberal democracy, "democratic leaders need to begin to think and act strategically beyond the framework of traditional security issues" (p. 230).

Carnes Lord's writing is witty and irreverent. He rejects the "alternately lunatic and sinister pursuit of the agenda of political correctness that pervades contemporary university life in America . . ." (p. 139). Whether referring to "ways of slipping in the poisoned stiletto" (p. 124) or to "holy warriors of a radicalized Islam" as "barbarians at the gates of the new Rome of Western liberalism" (p. 226), *The Modern Prince* is refreshing. Carnes Lord draws from Aristotle, Machiavelli and other political theorists without requiring his reader to have a background in political theory. Likewise, he illustrates his argument with examples from across the globe and time without requiring his audience to be degreed in world history and comparative politics. *The Modern Prince* is insightful, entertaining, and accessible to any reader interested in political leadership—an interest that Carnes Lord contends may be necessary for the "preservation of our way of life" (p. 231).

STACY BERGSTROM HALDI
Gettysburg College

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Thomas Jefferson *by R.B. Bernstein. New York, Oxford University Press, 2003. 254 pp. $26.00.*

R.B. Bernstein's book on Thomas Jefferson may be the best short biography of him ever written. In fact, at less than 200 pages, it is the only truly short biography of Thomas Jefferson with which I am familiar. It has generally been thought that Jefferson's life and influence were too large and the historical events in which he played a role too numerous to make a brief biography possible. Indeed, none of the midsize biographies—except perhaps Fawn Brodie's *Thomas Jefferson: An Intimate History*—are very successful, being either dull, tendentious, or error-ridden.

To compress Jefferson's eventful life into so few pages has, of course, required that Bernstein make choices. He sketches out the entire biography, which he supplements with a chronology. His focus, however, is on Jefferson's public life and on politics and constitutional history more than on Jefferson's private life or even his ideas. One could write entire books trying to explain the body of Jefferson's thought; indeed, many scholars have. Wisely, Bernstein has chosen to show us ideas in action. It is not so much that Bernstein's Jefferson is a doer rather than a thinker as that almost all of Jefferson's ideas were contested politically. Without saying it in so many words, Bernstein conveys that Jefferson was an enormously controversial figure and that his ideas, which we accept, as did Abraham Lincoln, as "the definitions and axioms of free society" (p. 198), encountered continuous opposition.

Hence, a narrative of Jefferson's public life is in large measure an account of conflicts and disappointments. True, Jefferson's early years in politics were generally successful, although, in both the House of Burgesses and the Continental Congress, he had to sacrifice his early opposition to slavery. Indeed, each achievement seems to have been paired with a failure. A few examples: his bill for Establishing Religious Freedom in Virginia was passed, but a host of other reforms died on the vine. Although he worked well with the legislature during his two years as wartime Governor, he barely escaped capture by the British army, and he simply walked away from the position eight days before his successor could be named. Jefferson's bickering with Hamilton when both served in Washington's cabinet proved a serious trial for the President. Jefferson subsequently fell out with his old friend John Adams, and Bernstein suggests that Jefferson himself brought on some of the crisis surrounding the election of 1800 by treating Aaron Burr so disrespectfully. Even after he became president himself—and doubled the size of the United States with the Louisiana Purchase—Jefferson met with opposition from John Marshall's Supreme Court and from dissidents within his own party, who thought he had enlarged the powers of the presidency to a dangerous degree. Evangelical Christians considered him an infidel. And it was one of his own former minions, believing that Jefferson had not sufficiently rewarded him for enduring imprisonment for violation of the Sedition Act, who exposed Jefferson's relationship with his slave, Sally Hemings.

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To be sure, many of these conflicts were caused by fundamental disagreements over the future of the nation. Although Bernstein sketches these in, the impression is of a succession of wearying battles more than a contest of visions. In addition, politics was highly personalized, and the combatants often changed sides. Jefferson and Adams were at different times both friends and enemies, and it was Hamilton who effectively made Jefferson president. Jefferson probably detested Burr too much for his own good.

Sometimes less is more, and in this very fine biography, R.B. Bernstein has succeeded in showing Jefferson's greatness and complexity and the tumultuousness of the times.

JAN ELLEN LEWIS
Rutgers University

The Regulars: The American Army 1898–1941 *by Edward M. Coffman. Cambridge, MA, Belknap Press, 2004. 519 pp. $35.00.*

Edward Coffman has written a history rich in detail and exceptional in scope. Using the recollections of soldiers, both famous and obscure, and of the families who followed them, Coffman recounts the period of our military history between the cavalry of the Old West and World War II. This era, which falls between *She Wore a Yellow Ribbon* and *From Here to Eternity*, reshaped our military institutions, their organizational culture, and the American concept of national defense.

Political scientists, particularly those with an interest in contemporary national security debates, would be wrong to dismiss this as just another detailed narrative of American military evolution. Central to current debates are a number of themes that Coffman reminds us are not new. Foremost among these is defense transformation. Even given the enormity of reshaping America's defense after September 11, 2001, it is no greater a task than was shifting America's Army from a small band of remote frontier outposts to the unprecedented force that assaulted Hitler's European fortress. Coffman reminds us that the centerpiece of any transformation is not technology but adaptive, innovative leadership. For all the obvious rationale for abandoning the horse for the tank, this change did not occur because of the clarity of an objective cost-benefit analysis. It was the result of the vision, intellect, and bureaucratic skill of officers like Dwight D. Eisenhower and George S. Patton and a host of now-forgotten soldiers whose emotional attachment to tradition was only exceeded by their willingness to think and act with an eye to the future.

Directly related is the importance of professional military education. One of Coffman's best-crafted chapters concludes with the quote by legendary World War II General "Lightning Joe" Collins: "It was our schools that saved the Army" (p. 289). However, schools are now viewed as blocks to be checked rather than as essential opportunities to reflect and grow and for individuals

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and the institution to adapt to changing realities. Extended time in schools, either as a student or as a faculty member, is seen today as detrimental to one's career.

Compare this environment to that which produced the twenty-five of thirty-four generals commanding corps in World War II who spent ten or more years in schools (p. 281). George Marshall, Joseph Stilwell, and Dwight Eisenhower built their reputations in large part on their careers as educators and students. Such a career pattern in today's Army, at the very time when physical bravery and battlefield skill must be matched with intellect and vision, would be considered professional suicide. To be sure, there are critical distinctions between the era that Coffman chronicles and the present day. America's military is now stretched across the globe, with units in combat somewhere in the world at almost every hour of every day. We do not have the luxury of time that was available to the small, minimally tasked Army of an isolationist nation.

Two other points from Coffman's work bear highlighting. The first is his rebuttal of the argument that the U.S. Army only fights the big ones and then only on its own terms. Coffman's accounts of the American Army in Cuba, in the Philippines, in China, and in a host of domestic-support and humanitarian-assistance missions clearly demonstrate that those missions that we say we never do are, in fact, those missions that have been conveniently forgotten and ignored.

The second point is the role of the Army in so-called social experiments. Coffman records how the U.S. Army provided opportunities to new immigrants not yet socialized to America, provided formal education and technical training in a nation where mass literacy was still more an ideal than a norm, and provided African Americans opportunities to serve a nation that was not yet accepting its responsibilities to all of its citizens.

At a time when shorter books seem the norm, particularly in political science, Coffman's text may require some adjustment on the part of the average reader. His nonsequential approach will frustrate those who like their history in unbroken timelines and clear, instantly discernible snapshots. But for those able to appreciate Coffman's insights, this is one history that can help to inform the present and shape the future.

JAY M. PARKER
United States Military Academy

Genes, Trade, and Regulation: The Seeds of Conflict in Food Biotechnology *by Thomas Bernauer. Princeton, NJ, Princeton University Press, 2003. 224 pp. $39.50.*

Thomas Bernauer has constructed a political science framework around one of the more contentious issues emerging from continuing scientific advances. The ability to introduce genes into the genetic structure of major food crops,

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in particular genes from unrelated species, has launched a whole new arena of dispute in this most basic of human activities, the production of food. The products that have resulted from this genetic manipulation, which Bernauer labels GE or genetically engineered products (often called genetically modified [GM] products), have already riled the international trade scene and bid to have larger repercussions in the years to come that may well have an impact on subjects well beyond the agricultural. The issues involved have significant political, economic, and commercial implications. Perhaps more important, they also raise profound cultural questions that have come to show surprising differences in values between the United States and the EU, and between the American and European publics.

The various aspects of the GE issue have received considerable attention in governments, in the public press, among policy analysts, and in the agricultural trade community. Most of the analyses have focused on the implications for agricultural production and trade or on the deeper significance of the differing attitudes of the United States and Europe. Bernauer, while including the many relevant factors, provides an analysis that is soundly embedded in the concepts of political science, offering a theory-based view of the subject that serves to illuminate the sources of the policy debates and how those debates will play out, given the forces at work. Perhaps not as dispassionate about the subject as he believes, Bernauer has, however, succeeded in offering an analysis that is both informative and innovative.

His major focus is on what he calls "regulatory polarization," the sharp differences that have developed between the EU and the United States over the regulation of agricultural biotechnology (and over a growing list of other subjects). The United States has tended to open its markets to biotechnological agricultural products with a minimum of regulation, whereas the EU has imposed severe constraints under the guidance of "the precautionary principle." Bernauer develops the reasons for this polarization in depth, showing the underlying forces at work and explaining the disparate outcomes. He relates these forces and their effects to the implications for trade and for the growth of serious tensions between the EU and the United States, with the expectation that those tensions will only increase in the future. He posits the real possibility, in fact likelihood, of a major trade collision in the WTO.

Bernauer is not optimistic that these tensions can be resolved short of a serious confrontation, but does offer some policy approaches, such as strengthening national and supranational regulations that are soundly based on dispassionate science, and accepting the (controversial) idea of labeling GE products, which could in time lead to government-supported but market-driven product differentiation (of GE and non-GE crops).

Bernauer is not at all confident that his proposed reforms will be accepted by the international community or that even if they are, there will be real resolution of the controversies over GE crops in the next ten years. That is not an encouraging conclusion about the exploitation of a new technology that

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is likely to be of great importance for food production, especially to developing countries. However, Bernauer has provided us with a thorough political analysis of the roots and causes of the regulatory/trade controversy over genetically modified crops that is accessible to the lay public while also being useful for those expert in the subject.

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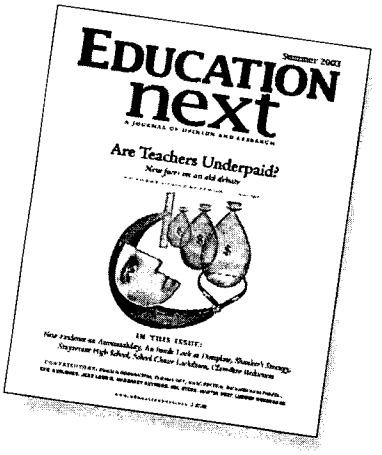

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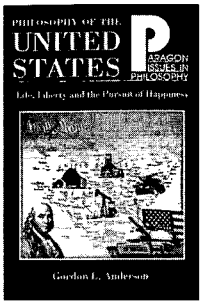

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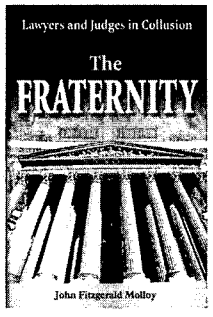

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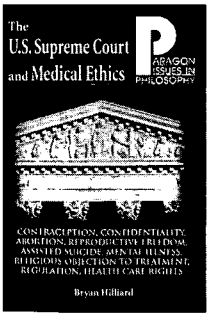

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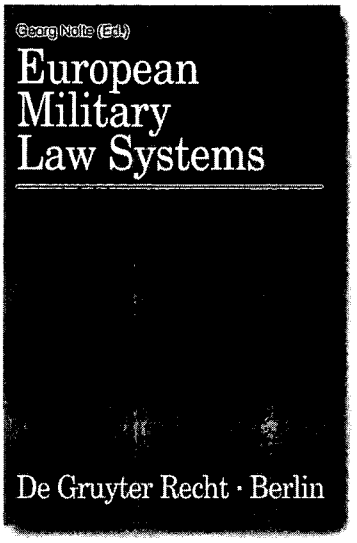

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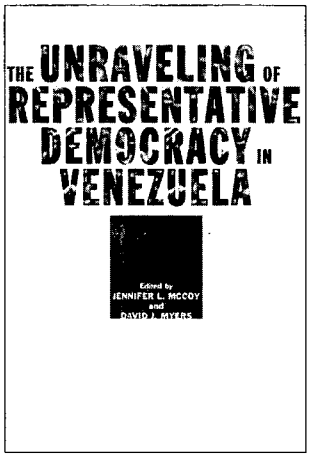

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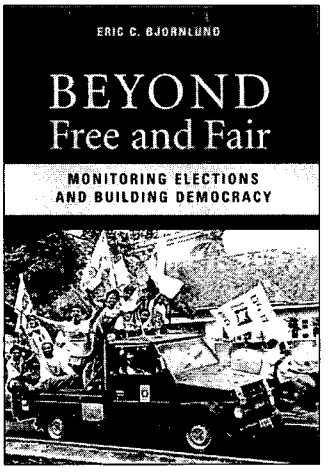

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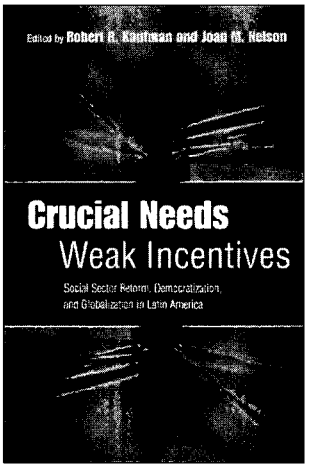
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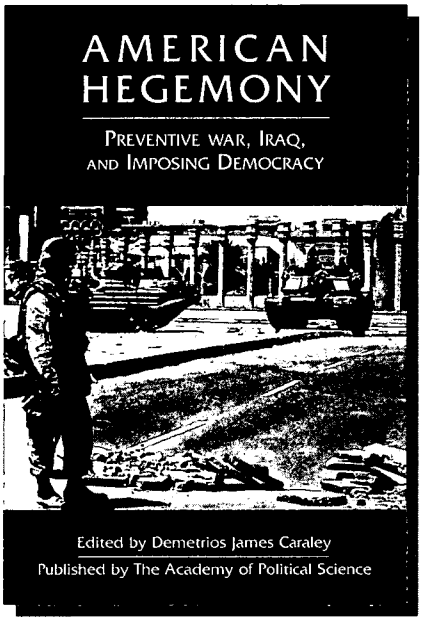

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